

**A Guide to Glasgow City Council's
Statutory Duties and Powers**

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the Glasgow City Council website

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INTRODUCTION

Disclaimer

This document is designed to provide a brief overview of Glasgow City Council's statutory powers and duties as a local authority in Scotland. It is not an exhaustive list and should not be used as a substitute for legal advice. Where a description is given of a piece of legislation only a brief summary is provided. This document was developed for internal use within Glasgow City Council and to help inform the elected members of the council as to the duties which Glasgow City Council is subject to. The council has decided to make this version available on our website in order to be more transparent – data protection law requires us to explain why we process personal data, and most personal data processed by the council is processed in order to allow us to carry out the statutory functions described in this document. However it is not intended to constitute legal advice and the council gives no warranties, express or implied, as to the accuracy or completeness of the information contained in the guide. The council can accept no liability in respect of use of the information contained in this guide.

Glasgow City Council is also subject to obligations under the Re-use of Public Sector Information Regulations 2015. The statutory duties set out in this guide can be considered to be the council's "public task" in terms of those Regulations – see <https://www.glasgow.gov.uk/index.aspx?articleid=18012> for details of how the council approaches requests for re-use of information under these Regulations.

Using the Guide

For ease of reference, descriptions of legislation have been grouped under the service area to which they are most relevant. However please note that the legislation may be applicable to more than one service area. The document also indicates where the Council has elected to deliver some or part of those powers / duties via one of its (ALEOs). Some powers and duties may also be delivered by the Council via contractual arrangements with third parties. While the major items of legislation have been covered, there may be other pieces of legislation not included in this document that also apply to council service departments or ALEOs.

Duties and powers – understanding the difference:

At its most basic level, a statutory duty means that the Council must comply with the requirements of the relevant legislation. A statutory power means that the Council has discretion whether or not to exercise the power.

In practice statutory duties and powers are used to provide a range of services which combine both mandatory and discretionary elements.

The Council's duties are in **bold** text in the Guide, whereas its powers are in ordinary text. The document reflects the legislation as at 1 December 2017, unless otherwise stated.

NB - This guide is for internal use by Glasgow City Council only. The information contained within the Guide does not constitute legal or professional advice and must not be relied upon as such.

CORPORATE SERVICES

1

Corporate Services is at the core of the Council's corporate governance and plays a key role in support of its strategic aims, key objectives and policies.

It comprises the following sections:

- Legal and Administrative Services
- Corporate Governance Team
- Corporate HR
- Customer and Business Services

Key activities include:

- ensuring that legislative requirements are met and that the interests of the Council are safeguarded
- provision of legal services to the Council and its Arms Length External Organisations (ALEOs)
- provision of Licensing and Registrar functions
- administration of local and parliamentary elections
- facilitating democratic arrangements including Council meetings and committees, arranging civic events and hospitality
- providing support services to elected members, including Lord Provost and International Office
- leading development of community planning at city-wide and local levels
- developing policy for the use and disbursement of grants
- monitoring and reporting on the Council's ALEOs
- administering customer care complaints system
- providing a reliable and flexible Human Resources framework
- assisting the Council in meeting its Freedom of Information and Data Protection responsibilities
- its Executive Director of Corporate Services has a statutory responsibility as 'monitoring officer' to make sure the Council acts in compliance with its legal framework

1

Function	Power to make Byelaws; Land Transactions; Finance and Public Expenditure; Community Councils
Act	Local Government (Scotland) Act 1973
Content	<p><u>Power to make Byelaws</u></p> <ul style="list-style-type: none"> • The Council has power to make byelaws for the good rule and government for the prevention and suppression of nuisances for the whole or part of their area. • Byelaws cannot be made if there is a provision for that purpose under another piece of legislation. • Before a byelaw can come into force the Council must apply to the Scottish Ministers for the byelaw to be confirmed. <ul style="list-style-type: none"> ○ Scottish Ministers can confirm a byelaw with or without amendments or they can refuse to confirm a byelaw ○ Scottish Ministers may also fix a date for the byelaw coming into force but if no date is set then the byelaw will come into force one month after the date it is confirmed by the Scottish Ministers • The Council must review each byelaw at least every 10 years and must keep a register of all byelaws made. • The Council also has power to revoke byelaws. <p><u>Land Transactions</u></p> <ul style="list-style-type: none"> • For the purpose of its function under an enactment or for the benefit, improvement or development of its area, a local authority may acquire by agreement any land, whether situated inside or outside its area. • Subject to certain statutory conditions a local authority can dispose of land held by it; however where land is part of the common good judicial authority may be necessary. • Usually a local authority cannot dispose of land for less than the best consideration that can reasonably be obtained. Exceptions to this rule are set out in the Act. <p><u>Finance and Public Expenditure</u></p> <ul style="list-style-type: none"> • Every local authority must have a general fund and all sums payable by that authority shall be payable out of that fund. • Section 95 requires local authorities to make arrangements for the proper administration of their financial affairs and appoint a responsible financial officer to have responsibility for those

arrangements.

- Local authorities must keep accounts of all transactions relating to all funds of the authority.

Community Councils

In terms of Part IV of the Local Government (Scotland) Act 1973 s.52 (as amended by the Local Government (Miscellaneous Provisions) (Scotland) Act 1981) a local authority must submit a scheme for the establishment of community councils for its area to Scottish Ministers.

In addition to any other purpose which a community council may pursue, the general purpose of a community council is to ascertain, co-ordinate and express to the local authorities for its area, and to public authorities, the views of the community which it represents, in relation to matters for which those authorities are responsible, and to take such action in the interests of that community as appears to it to be expedient and practicable.

In terms of s.55 of the 1973 Act as amended, local authorities may make such contributions as they think fit towards the expenses of community councils within their areas and may, at the request of such community councils, provide them with staff, services, accommodation, furniture, vehicles and equipment, on such terms as to payment or otherwise as may be agreed between the councils concerned.

Relevant Council Service / ALEO	All Services and ALEO's
--	--------------------------------

1

Function	Combating Bribery
Act	Bribery Act 2010
Content	
<ul style="list-style-type: none"> ▪ The Bribery Act 2010 provides a legal framework to combat bribery in the public and private sectors and places certain duties on the Council in relation to the prevention of bribery. ▪ The Act defines bribery as an improper performance of a duty/function in return for an advantage. An advantage includes cash bribes and non cash bribes. ▪ Bribery is a criminal offence and individuals who are convicted face up to 10 years imprisonment and an unlimited fine. Organisations who fail to prevent bribery face unlimited fines. ▪ It is a criminal offence : <ul style="list-style-type: none"> ○ To make a bribe; ○ To accept a bribe; ○ To bribe a foreign public official; and ○ For an organisation to fail to prevent bribery. ▪ An organisation has a complete defence to the crime of failing to prevent bribery if the organisation has adequate procedures in place to prevent bribery. Whilst there is no definition of adequate procedures, six principles are set out which must be taken into account when determining if the organisation has adequate procedures in place. The six principles are: <ul style="list-style-type: none"> ○ Proportionate procedures; ○ Top level commitment; ○ Risk Assessment; ○ Due Diligence; ○ Communication; and ○ Monitoring and Review. ○ 	
Relevant Council Service / ALEO	All Services and ALEOs

CORPORATE SERVICES

1

Function	
Function	Common Good
Act	Local Government (Scotland) Act 1973 as amended by Local Government etc. (Scotland) Act 1994 ; Community Empowerment (Scotland) Act 2015
Content	
<ul style="list-style-type: none">▪ Local authorities have a duty to maintain an account in respect of the assets which are Common Good▪ Restrictions are imposed on Local Authorities in relation to the disposal of assets which are Common Good and which are accessed and used by the general public. <p>The Council has a duty to:</p> <ul style="list-style-type: none">• establish and maintain a register of all property held by it for the Common Good, and• publish its proposals and consult community bodies prior to disposing of or changing the use of Common Good assets.	
Relevant Council Service / ALEO	Finance/Corporate

CORPORATE SERVICES

1

Function	
Function	Common Good
Act	Land Reform (Scotland) Act 2016
Content	
<ul style="list-style-type: none">▪ In addition to the Council's current powers to dispose of common good land, this Act allows the Council, in certain circumstances, to apply to court to appropriate inalienable common good land for other purposes, such as a new school.▪ There are additional provisions within the Act to review and amend common paths plans, including requirements for consultation. At the time of writing (November 2016) these provisions were not yet in force).	
Relevant Council Service / ALEO	All services and ALEOs

CORPORATE SERVICES

1

Function	Community Empowerment / Community Planning
Act	Community Empowerment (Scotland) Act 2015
Content	
<p>The Act provides a framework to:</p> <ul style="list-style-type: none"> (i) empower community bodies through the ownership of local land and building assets, and (ii) help further development of the Public Service Reform Agenda with a focus on achieving outcomes and improving the community planning process. <p>Community Planning Partnership (CPPs, of which the Council forms part) are given a statutory basis. Duties are imposed on CPPs regarding the planning and delivery of local outcomes.</p> <p>Local communities are to have a greater role in how services are planned and delivered. Community bodies can make participation requests to public service authorities (including the Council).</p> <p>Community bodies have a right to request the purchase, lease, management or use of land / building assets belonging to the Council (and certain other Scottish public bodies).</p> <p>The 2015 Act also creates a new framework for "Community Planning". Community Planning is a process which helps public agencies to work together with the community to plan and deliver better services. The main aims of Community Planning are:</p> <ul style="list-style-type: none"> • Making sure people and communities are genuinely engaged in the decisions made on public services which affect them: and • For organisations to work together in providing better public services <p>The 2015 Act gives local Community Planning Partnership (CPPs, of which the Council forms part) a new statutory basis. Specific duties are imposed on several of the CPPs partners including the Council regarding the governance of the Community Planning Partnership and reporting on its progress. It also creates a duty on all named partners for the planning and delivery of local outcomes, the tackling of inequalities, and the promotion of full participation of communities.</p>	
Relevant Council Service / ALEO	All Services and ALEOs

CORPORATE SERVICES

1

Function	Management rules
Act	Civic Government (Scotland) Act 1982, Sections 112-118
Content	
<p>The Council has power to make management rules regulating the use of, and conduct of persons while on or in, any land or premises owned, occupied, managed or otherwise controlled by the Council and to which the public have access.</p> <p>The Council currently has management rules in respect of the management of cemeteries and public parks. The procedure for making and publicising management rules is set out in Sections 112-115 of the Act.</p> <p>An authorised officer of the Council may exclude a person from the relevant land or premises if he/she has reasonable grounds for believing that person has contravened or is contravening a management rule. (There is an additional provision permitting the exclusion of a person if the authorised officer has reasonable grounds for believing the person is about to contravene a management rule).</p> <p>The Council may make an Exclusion Order (lasting up to one year) in respect of any person who has persistently contravened or attempted to contravene its management rules in respect of particular land or premises and is in the Council's opinion likely to contravene them again. This power cannot be delegated to an officer.</p>	
Relevant Council Service / ALEO	All Services and ALEOs

CORPORATE SERVICES

1

Function	
Overseas assistance	
Act	Local Government (Overseas Assistance) Act 1993
Content	
<p>A local authority may provide advice and assistance in respect of any matter in which it has skill and experience to a body engaged outside the UK in carrying on any local government activity. This does not include authorisation under the Act to make a grant or loan, give a guarantee or indemnity, or invest by acquiring share or loan capital.</p>	
Relevant Council Service / ALEO	All Services and ALEOs

CORPORATE SERVICES

1

Function	Supply of goods and services to a public body
Act	Local Authority (Goods and Services) Act 1970
Content	
<p>This legislation makes provision with respect to the supply of goods and services to certain public bodies and other persons in prescribed circumstances.</p> <p>A local authority and any public body (defined in the Act) may enter into an agreement for purposes detailed in Section 1 of the Act, including:</p> <ul style="list-style-type: none"> • the supply of goods or materials • the provision of administrative, professional or technical services • use of any vehicle, plant or apparatus • carrying out maintenance works in connection with land or buildings for which the body is responsible <p>A local authority and any person may in relation to any “relevant trading operation” (ie a trading operation for which the authority keeps separate trading accounts) enter into an agreement for the:</p> <ul style="list-style-type: none"> • supply by the authority to the person of any goods or materials • provision by the authority of any services • use by the person of any property belonging to or facilities under the control of the authority • carrying out by the authority of works of maintenance in connection with land or buildings for which the person is responsible. <p>The local authority cannot enter into an agreement under the trading operation provisions above if the commercial services income accruing to it in any financial year will exceed the statutory limit without the prior consent of the Scottish Ministers.</p>	
Relevant Council Service / ALEO	All Services and ALEOs

1

Function	Protects people from discrimination in the workplace and in wider society
Act	Equality Act 2010
Content	
<ul style="list-style-type: none"> ▪ The Act protects people from discrimination on the basis of protected characteristics. The protected characteristics are: <ul style="list-style-type: none"> ○ Age; ○ Disability; ○ Gender reassignment; ○ Marriage and civil partnerships; ○ Pregnancy and maternity; ○ Race; ○ Religion or belief; ○ Sex; ○ Sexual orientation. ▪ The Act imposes various duties to protect people from discrimination including a duty to make reasonable adjustments for disabled people. ▪ A public authority or a body exercising public functions must, in the exercise of its functions, have due regard to the need to: <ul style="list-style-type: none"> ○ Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; ○ Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and ○ Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. ▪ Public authorities must publicise equality outcomes and report progress in meeting the outcomes at least every four years. 	
Relevant Council Service / ALEO	All Services and ALEOs

1

Function	Procurement
Act	The Public Contracts (Scotland) Regulations 2015 The Utilities Contracts (Scotland) Regulations 2016 The Concession Contracts (Scotland) Regulations 2016 (supplemented by guidance issued via Scottish Procurement Policy Notes)
Content	<p>The Regulations came into effect on 18 April 2016 and prescribe mandatory tendering procedures and timescales with which contracting authorities are required to comply when awarding any public contract above a prescribed value threshold.</p> <p>Although the Council's main purchasing activities will be governed by the Public Contracts regulations, the Utilities Contracts regulations will govern purchasing requirements in relation to, for example, gas, heat, electricity, water and transport services, whereas any works or services concession contracts (where a third party is granted a right to exploit works or services as payment) will be governed by the Concession Contracts regulations.</p> <p>Public contracts must be awarded by way of transparent and fair processes using either the open, restricted, competitive negotiated, competitive dialogue or innovation partnership procedure (unless certain exemptions apply). Contract award decisions must be made in accordance with specific evaluation rules and notified to all applicants.</p> <p>The Council will need to comply with the new procedures set out in the legislation. These include:</p> <ul style="list-style-type: none"> • revised minimum time limits for procurement exercises • new procurement procedures (e.g. innovation partnerships) which should increase the scope to use public procurement to develop new solutions to meet the Council's requirements • revised rules on the exclusion of firms from tendering for public contracts • a new requirement that all procurement procedure communications should be by electronic means • a duty to consider dividing requirements into smaller lots (which may further encourage SMEs to bid for public contracts) <p>There are remedies available for unsuccessful Applicants who wish to challenge any contract award decision and these are set out in the Regulations.</p>

The main remedies for a successful challenge are either to have the procurement process automatically suspended, or the contract award declared ineffective, or an award of damages, and/or a financial penalty. **Public contracts below the prescribed value threshold must still be advertised in a manner which ensures genuine, open and fair competition.**

The Regulations also provide certain duties relating to the prevention of bribery and corruption in the award of public contracts.

Blacklisting

In carrying out any tendering exercise for the award of a public contract, the Council must carry out a pre-selection exercise which among other things allows it to exclude from the tender competition any bidder considered to have committed grave misconduct in the course of its business.

Such conduct can include engaging in blacklisting employees/potential employees unless the bidder has taken appropriate remedial steps (e.g. an appropriate apology, made a statement regarding future conduct, taken steps to prevent further misconduct, or paid compensation in respect of any damage caused).

The Council must also include within its standard contractual terms and conditions a clause providing for termination of the contract if a supplier breaches the relevant legislation during the contract period

Community Benefits

The Council may use the functionality available within the Public Contract (Scotland) Tendering portal (PCS) where appropriate, in order to include a requirement for primary contractors awarded major public works contracts (i.e. above the relevant OJEU threshold) to:

- advertise all sub-contract opportunities on the PCS portal, where the primary contractor does not already have an identified supply chain; and
- deliver any further community benefits required by the contracting authority as outlined within the OJEU contract notice and subsequently detailed in the contract documents.

Supported Businesses

When carrying out its procurement function, the Council as a contracting authority under the Regulations may reserve the right to participate in a competitive tendering exercise for the award of a public contract to bidders which operate supported businesses or supported employment programmes - i.e. where the business or employment programme's main aim is the social and professional integration of disabled or disadvantaged persons and at least 30% of the supplier's employees are disabled or disadvantaged persons. (NB this procedure (contained in Regulation 21 of the Public Contracts (Scotland) Regulations 2015) still requires that the public contract is opened up to genuine competition, but allows the Council to restrict the class of bidders to those which operate such a business or employment programme).

Relevant Council Service / ALEO

All Services and ALEOs

1

Function	Procurement
Act	Procurement Reform (Scotland) Act 2014 The Procurement (Scotland) Regulations 2016
Content	
<p>The EU Directives and implementing Scottish Regulations apply to public contracts with an estimated value above the prescribed OJEU thresholds. The Procurement Reform (Scotland) Act, however, applies to non-works public contracts above £50,000 and public works contracts above £2m (referred to as regulated procurements).</p> <p>Under the Act, the Council has a general duty to:</p> <ul style="list-style-type: none"> • treat economic operators (i.e. tenderers and potential tenderers) equally and without discrimination and • act in a transparent and proportionate manner. <p>The Council has a sustainable procurement duty. That is, before carrying out a regulated procurement it must consider how the procurement process can be conducted to:</p> <ul style="list-style-type: none"> • improve the economic, social and environmental wellbeing of its area • facilitate the involvement of SMEs, third sector bodies and supported businesses and • promote innovation. <p>Third sector bodies are defined as organisations (other than those established under statute) that exist wholly or mainly to provide benefits for society of the environment. References to wellbeing of the authority's area include, in particular references to reducing inequality.</p> <p>The Council also has:-</p> <ul style="list-style-type: none"> • a duty to have a procurement strategy and keep it under regular review. Among other things, the procurement strategy must include a statement of the Council's general policy on community benefit requirements, payment of the living wage and the procurement of fairly and ethically traded goods and services. • a duty to seek offers as part of a regulated procurement process on the Public Contracts Scotland 	

Tendering portal.

- in relation to a proposal to carry out a regulated procurement with a value equal to or greater than £4m, a duty to consider whether to impose community benefit requirements. If it chooses not to include any such requirements, it must provide a statement of its reasons for not doing so.
- a duty to keep and maintain a contracts register containing such information as: the date of contract award, name of the successful contractors, estimated value, contract duration.

The Act provides a number of other duties in relation to the exclusion of tenderers, selection of winning tenders, and information to be provided to unsuccessful bidders.

In addition, it provides remedies for aggrieved tenderers who wish to challenge any decisions made regarding the award of a regulated contract.

Much of the substance of the legislation has been introduced by way of guidance promoted and regulations made by the Scottish Ministers. Such guidance relates to the implementation of the sustainable procurement duty, the award of health and social care contracts, community benefit requirements, procurement strategies, and exemptions where a contract can be excluded from competition (see <http://www.gov.scot/Resource/0049/00496919.pdf>).

The Procurement (Scotland) Regulations 2016, among other things:

- make provision regarding the methods for calculating the estimated value of regulated contracts
- specify what is a health or social care service for the purposes of the 2014 Act
- specify circumstances in which a regulated contract may be awarded without seeking offers
- make further provision about publication of contract notices and award notices, and
- make further provisions regarding the selection of economic operators in relation to lower value regulated procurements

Statutory Guidance issued on addressing Fair Work Practices, including the Living Wage, in Procurement can be accessed via this link: <http://www.gov.scot/Resource/0048/00486741.pdf>

Paragraphs 17 to 19 of the Statutory Guidance explain

- the current legal position on inclusion of a general policy on payment of a living wage in the Council's procurement strategy, and
- the extent to which a bidder's fair work practices can be evaluated in procurement processes where they are relevant to the delivery of a particular contract.

Relevant Council Service / ALEO

All Services and ALEOs

CORPORATE SERVICES

1

Function	Best Value; Power to Advance Well-being
Act	Local Government in Scotland Act 2003
Content	<p><u>Best Value</u></p> <ul style="list-style-type: none"> There is a duty on local authorities to make arrangements which are Best Value. Best Value is to make arrangements to secure continuous improvement in performance, while maintaining an appropriate balance between quality and cost. In doing so local authorities must have regard to economy, efficiency, effectiveness, equal opportunities requirements and to the achievement of sustainable development. <p><u>Power to Advance Well-being</u></p> <p>The Act creates a discretionary power which enables local authorities to do anything which they consider is likely to promote or improve the well-being of the whole or part of their area and/or persons in it, subject to certain limitations.</p> <p>This includes power to incur expenditure; give financial assistance; enter into agreements; co-operate with, facilitate or co-ordinate the activities of any person; exercise on behalf of any person any function of that person; and provide staff, goods, services or property to any person.</p> <p>In exercising this power local authorities must have regard to any guidance issued by the Scottish Government relating to its exercise. The power cannot be used to enable a local authority to do anything that is expressly prohibited or restricted by other legislation. It also cannot be used in a way that unreasonably duplicates statutory functions of another body. A local authority cannot raise money by levying any form of tax or charge, by borrowing or otherwise through use of this power apart from making reasonable charges for defraying costs incurred in the supply of goods and services. Where the Council imposes any charge permitted under the power to advance well-being, it must comply with certain rules requiring publication of the reason for such charges.</p>
Relevant Council Service / ALEO	All Services and ALEOs

1

Function	Governance
Act	Local Government and Housing Act 1989
Content	
<p>Monitoring Officer</p> <p>The Council must designate a "Monitoring Officer" as the officer responsible for performing certain duties imposed under the 1989 Act, including:</p> <ul style="list-style-type: none"> to report on contraventions or likely contraventions by the Council or any of its Committees or staff of any enactment or rule of law, and to report on any maladministration or injustice following an investigation by the Public Standards Commissioner <p>Politically Restricted Posts</p> <p>The Council has a duty to ensure that the terms of appointment or conditions of employment of certain members of its staff, including Chief Officers, Deputes and Officers named on a statutory list restrict their political activities in accordance with the Act. Such staff are disqualified from becoming or remaining a Councillor in any UK local authority, and membership of the House of Commons, the Scottish Parliament and the European Parliament. Restrictions also apply in relation to politically restricted post holders being prohibited from engaging in certain activities as an officer or member of a political party, or canvassing on its behalf. There is also a prohibition on speaking in public or publishing any written work in support of a political party.</p> <p>The Council must prepare and maintain the list of politically restricted posts mentioned above.</p>	
Relevant Council Service / ALEO	All Services and ALEOs

CORPORATE SERVICES

1

Function	Scrutiny arrangements for Police and Fire services
Act	Police and Fire Reform (Scotland) Act 2012
Content	<p>The legal obligations of the Council to set up a scrutiny arrangement for both the Police and the Scottish Fire and Rescue Service are set out in the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”). The 2012 Act replaces local authorities’ role as police authorities and fire & rescue authorities through the creation of the Scottish Police Authority (SPA) and the Scottish Fire & Rescue Service (SFRS). The Act includes a framework for the delivery of local scrutiny and engagement responsibilities.</p> <p>In terms of the 2012 Act, the local authority must be consulted on local service plans for each service and must approve them. The local Police Commander for the Police Service of Scotland and the Senior Officer of the Scottish Fire and Rescue Service are obliged to involve the local authority in setting priorities and objectives, including participating in discussions regarding the Single Outcome Agreement. The local Policing Plan – which the local commander will agree with the Chief Constable – needs to be approved by the local authority. There is a similar provision for the Fire and Rescue Plan. It is therefore clear that the local authority must be involved in the setting of priorities and objectives in the Plans, and the local authority must sign them off. However, before this is completed, the other Community Planning partners must be consulted prior to the local authority signing off the Plans.</p> <p>In Glasgow it has been agreed that scrutiny of both Police and Fire and Rescue Services will be exercised through the Safe Glasgow Group (see Appendix 1 below). This Group is a partnership between Glasgow City Council and Glasgow Community Planning Partnership. In order to address the need to have significant level of elected member involvement in the scrutiny of both Police and Fire and Rescue plans, this is a sub group of the Community Planning Partnership (CPP) Strategic Board. It is able to co-opt other suitable persons to assist in performing this role.</p> <p>In terms of consultations on both Police and Fire and Rescue Plans, each Plan requires to be presented to the Safe Glasgow Group for consideration and comment prior to submission to the CPP Strategic Board.</p> <p>In the case of the Police Service of Scotland plan, the Police Commander will present the draft Plan but not take part in deliberations. The same arrangement will apply in respect of the Scottish Fire and Rescue Service for their plan.</p> <p>Appendix 1 Terms of Reference of Safe Glasgow Group</p>

1. To consider and comment upon the proposed local operating arrangements for the Police Service of Scotland and the Scottish Fire and Rescue Service.
2. To consider the draft Police and Fire and Rescue Plans for Glasgow, and having then consulted the partners in the Glasgow Community Planning Partnership thereafter to make recommendations on the Plans to the Glasgow City Council Executive Committee.
- 3 To scrutinise the Police Service of Scotland and Scottish Fire and Rescue Services involvement with the work of the Glasgow Community Planning Partnership and their contribution towards the achievement of Glasgow's Single Outcome Agreement, in particular, but not exclusively, the following local outcomes:-
 - Reduce the level of violent crime, including gender-based and domestic violence.
 - Reduce the involvement of young people in crime and as victims of crime and accidents.
 - Reduce the public acceptance and incidence of over-consumption of alcohol and its subsequent negative impacts (personal, social and economic).
 - Reduce the impact and incidence of anti-social behaviour.
 - Reduce the fear of crime.
 - Reduce injuries as a result of road traffic incidents, fires and incidents in the home.
4. To scrutinise the delivery of services by the Police Service of Scotland and the Scottish Fire and Rescue Service in Glasgow particularly against local Plan targets; and to receive and consider the monitoring reports on the Service Level Agreement through which Glasgow City Council funds 100 additional officers through Community Policing.
5. To request and receive information and reports from the local Commander (Police) and Local Senior Officer (Fire and Rescue) on any area or aspect of the service as deemed appropriate.
6. To receive and comment on performance reports from the Local Police Commander and Local Fire and Rescue Senior Officer, in order to monitor and assess the performance of Police and Fire and Rescue Services against local and national performance frameworks and to make recommendations for improvements.
7. To oversee the discharge of the Police Service of Scotland and Scottish Fire and Rescue consultative and community engagement responsibilities in Glasgow.
8. To receive overview reports on complaints about Police and Fire and Rescue services and how these are dealt with.
9. To consider reports from external agencies, such as Her Majesty's Inspectorate of Constabulary in Scotland (HMICS), external auditors and Audit Scotland in relation to the work carried out by the Police Service and Fire and Rescue Service.
10. To consider, engage in and respond to consultations on strategic Police and Fire and Rescue priorities and Scottish Police Authority and Scottish Fire and Rescue Service strategic plans.

Relevant Council Service / ALEO

Democratic Services

CORPORATE SERVICES

1

Function	Parades and Processions
Act	Civic Government (Scotland) Act 1982
Content	
<p>The legislation is Part V of the Civic Government (Scotland) Act 1982 as amended, particularly s.62. It should be read in conjunction with the Scottish Government Guidance on "Review of Marches and Parades in Scotland" December 2006 issued in terms of s.65A of the 1982 Act.</p> <p>A local authority must take into account four factors when considering a procession notification –</p> <ul style="list-style-type: none"> • public safety, • public order, • damage to property, and • disruption to the life of the community. <p>Except where required following consideration of its effect on any of these four factors, local authorities do not have the power to prevent a public procession (i.e. by the introduction of a general presumption against processions).</p> <p>In addition, it has to be noted that local authorities must recognise the fundamental rights contained in the European Convention on Human Rights in relation to freedom of assembly and of association.</p> <p>Any local authority must act, within the current European and domestic legislation, to balance the rights of individuals and groups to hold processions, but also to respect the rights of others to go about their business without unnecessary disruption.</p> <p>In taking decisions about processions, a Council is not permitted by the above legal framework to make decisions based upon the views promoted by the organisation seeking to hold a parade in the City. A procession may give offence to persons opposed to the ideas or campaign that it is seeking to promote. However, the participants are permitted to hold a procession as long as they observe the Council's Code of Conduct and there are no significant concerns in relation to public order, public safety, and damage to property or disruption to the life of the community.</p> <p>Alterations to any procession can only be achieved through negotiation and mutual agreement with the Council, Police and procession organisers.</p>	
Relevant Council Service / ALEO	Democratic Services

CORPORATE SERVICES

1

Function	Arrangements required for the Registration of Births etc. in Scotland
Act	The Registration of Births, Deaths and Marriages (Scotland) Act 1965
Content	
<p>The 1965 Act:</p> <ul style="list-style-type: none"> ▪ Determines that for each Registration District there shall be a local Registration Authority in whose area the registration office or the principal premises of that office are situated. ▪ Any alteration of districts must only take place following consultation and with agreement of the Registrar General of Scotland. ▪ Each Local Authority is responsible for appointing a District Registrar to register births, marriages and deaths within that District. <ul style="list-style-type: none"> • The local Authority must inform and consult with the Registrar General on making an appointment and inform the Registrar General forthwith of the name and surname of the person appointed and the date when the appointment is to take place. • Person(s) appointed must possess the appropriate qualification. ▪ Every local authority shall provide and maintain a registration office in its area, in particular that a suitable fireproof repository or fireproof safe / cabinet is provided for the security of records in the custody of the District Registrar. ▪ District Registrar must account to the local registration authority for all fees received and payable to him/her. ▪ General requirements for digital security are set out in data protection and electronic communications legislation, and all named registration staff access digital records through GSX. 	
Relevant Council Service / ALEO	Registrars

CORPORATE SERVICES

1

Function	Allows for the approval of venues for civil marriages
Act	The Marriage (Scotland) Act 2002
Content	
This Act allows for: <ul style="list-style-type: none">▪ Other venues to apply for a licence to hold civil ceremonies on their premises.▪ Registrars to have the authority to conduct ceremonies in approved places.	
Relevant Council Service / ALEO	Registrars

CORPORATE SERVICES

1

Function	
Function	Allows for flexibility in boundaries and opening hours of Registration Services
Act	The Local Electoral and Administration Registration Services (Scotland) Act 2006
Content	
The 2006 Act allows for: <ul style="list-style-type: none">▪ Flexibility in opening times. Different days and different hours may be fixed for registration office premises maintained by the Council.▪ Re-drawing of boundaries for birth and death registrations (e.g. following a local authority boundary review).	
Relevant Council Service / ALEO	Registrars

1

The Freedom of Information (Scotland) Act 2002 came into force in January 2005 and aims to increase openness and accountability by ensuring people can access information held by Scottish public bodies – including the Council.

- In general, people have the right to access all types of recorded information, without giving a reason for asking - although there are specific exemptions.
- FOI is retrospective, people can ask for old records and archives.
- The Council must comply with these requests and respond within 20 working days.

As much information as possible has already been placed on the Council's Publications Scheme and Publications List, which means the public can be directed to this in the first instance.

Further information in respect of how Freedom of Information impacts upon Elected Members can be found [here](#).

Information relating to the environment is dealt with specifically under the Environmental Information (Scotland) Regulations 2004 made under the Freedom of Information (Scotland) Act 2002.

1

Function	Disclosure of information held by Scottish public authorities or by persons providing services for them
Act	Freedom of Information (Scotland) Act 2002
Content	<p>Any person (private individuals, pressure groups, journalists, companies, elected representatives, etc.) has the right to access all types of recorded information, without giving a reason for asking. If the authority holds the information in question then, unless there is a specific exemption allowing it to be withheld, the information must be provided.</p> <p>The Act covers recorded information in any format and of any age – not just to records created after the Act came into force. This includes archives, minutes, reports, business papers and e-mails.</p> <p>The Council must comply with the request and respond within twenty working days.</p> <p>The Act sets out that information which costs an authority £100 or less to provide should be free of charge. For requests which cost an authority between £100 and £600 to provide, the authority can charge 10% of that cost (i.e. a maximum charge of £50).</p> <p>Exemptions which allow information to be withheld include, but are not limited to:-</p> <ul style="list-style-type: none"> • When the information requested is not held by the Council nor is held by anyone else on its behalf • When the cost of providing the information would exceed the limit set down in the Fee Regulations (currently the limit is £600) • When the information is exempt by virtue of one or more of the exemptions contained in the Act <p>The Act contains a list of absolute exemptions. This means that, as long as the information falls into the exempt category, the public authority does not have to disclose the information, nor does it have to consider the public interest test below. Absolute exemptions include, but are not limited to:-</p> <ul style="list-style-type: none"> ▪ Information otherwise accessible ▪ Personal information (where the disclosure of the information would breach data protection principles under the Data Protection Act 1998 see pages 26- 28) ▪ Court records <p>The Act also contains a list of non-absolute/ qualified exemptions. In order to withhold information under these exemptions, a public interest test must also be satisfied.</p>

Under the public interest test, the Council is required to undertake a balancing exercise to consider the public interest in disclosing the information and the public interest in maintaining the exemption. Where the public interest in maintaining the exemption outweighs the public interest in disclosure of the information, then the information can be withheld. If the public interest in disclosing the information is equal to or greater than the public interest in maintaining the exemption, then the information must be disclosed.

The applicant must be advised of applicable exemptions if the information is not provided.

The requestor can ask for a review of the initial decision of the council. The requestor has 40 days from receipt of the initial decision in which to lodge a requirement for review. Like the request for information this request for review must be in writing or other permanent form, give an address for correspondence and describe the original request and explain why the requestor is dissatisfied.

If a dissatisfied applicant seeks review, the Council must respond to requests for review within twenty working days.

There are only 3 options in carrying out a review;

- confirm the initial decision reached, either with or without modification
- substitute a different decision or
- reach a decision where the complaint is that no decision has been reached.

An applicant who is dissatisfied with his/her treatment by the Council following a review decision can appeal to the Scottish Information Commissioner for a decision.

Relevant Council Service / ALEO

All Services and ALEOs

CORPORATE SERVICES

1

Function	Public rights of access to environmental information held by public authorities.
Act	Environmental Information (Scotland) Regulations 2004
Content	<ul style="list-style-type: none"> ▪ The term “environmental information” is very broad and includes written information on, but not limited to -: <ul style="list-style-type: none"> ○ the state of the elements such as air and atmosphere, water, soil, land, landscape and natural sites ○ factors, such as substances, energy, noise, radiation or waste, including radioactive waste and emissions ○ environmental policies and agreements ○ reports on the implementation of environmental legislation ○ cost benefit and other economic analyses used in environmental decision making ○ the state of human health and safety, including the contamination of the food chain, where relevant; conditions of human life which are, or are likely to be affected by, the state of the elements of the environment; and the interaction between them. ▪ The Regulations require a local authority to make environmental information available proactively, especially by electronic means. ▪ The local authority must give advice and assistance to any person making a request for environmental information. ▪ The local authority must make environmental information available to any person who requests it as quickly as possible and within 20 working days of their request, or exceptionally within 40 working days if the request is complex and voluminous. ▪ The local authority can refuse only in accordance with the limited exceptions available under the regulations. These include, but are not limited to:- <ul style="list-style-type: none"> ○ The local authority does not hold the information ○ The request is manifestly unreasonable ○ The request relates to information that is incomplete or is in the course of drafting. ▪ If the local authority refuses to provide information, it must give reasons, and provide details of the procedures available to applicants for review of a refusal and the process for appeal. ▪ The local authority must ensure that internal procedures are in place to deal with any complaints. ▪ GCC Executive Committee approved a schedule of fees for environmental information (11 November 2010)
Relevant Council Service / ALEO	All Services and ALEOs (impact mostly on LES)

CORPORATE SERVICES

1

Function	Re-use of Public Sector Information
Act	The Re-use of Public Sector Information Regulations 2015
Content	
<p>These Regulations implement EU Directive 2013/37.</p> <p>The Council has a duty to allow the re-use of most public sector information. Re-use means the use of public sector information for a different purpose than that for which it was originally produced, held or disseminated.</p> <p>Information produced, held or disseminated within a public task must be re-usable unless it is subject to restriction or exclusion under the Regulations (e.g. personal data, information where a third party holds the copyright).</p> <p>In general, charging for re-use at marginal cost is permitted, subject to certain exceptions (e.g. for libraries, museums, and archives) which permit charging to cover the cost of collection, production, etc. together with a reasonable return.</p> <p>The Council must respond to any request for re-use within twenty working days. Any extension beyond that period must be reasonable in the circumstances, and in such cases the Council must inform the requestor of the expected timeframe and reasons for the delay.</p> <p>The Council may impose conditions on re-use, where appropriate, through the issue of a licence which should, wherever possible, be in a standard format.</p> <p>If any complaint regarding the request for re-use cannot be resolved internally by the Council, it may be escalated by a complainant to the Scottish Information Commissioner's Office (SICO) for a recommendation or a binding decision, and potentially to the First Tier Tribunal for Information Rights.</p> <p>The Council must comply with a SICO (or First Tier Tribunal) decision subject to its rights of appeal, and must respond to a SICO recommendation within twenty days.</p>	
Relevant Council Service / ALEO	All Services and ALEOs

1

Function	Processing of information relating to individuals, including the obtaining, holding, use or disclosure of information.
Act	Data Protection Act 1998
Content	<ul style="list-style-type: none"> ▪ If an organisation processes personal data it is required to have an entry (called a “notification”) in a public register maintained by the Information Commissioner (formerly called the Data Protection Commissioner.) The Notification for Glasgow City Council is handled by the Council’s Data Protection Officer, who is located in the Chief Executive’s Department. ▪ Processing of data must comply with all eight Data Protection Principles found in Schedule 1 of the Act. These are, in summary:- <ol style="list-style-type: none"> 1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless- <ol style="list-style-type: none"> (a) at least one of the conditions in Schedule 2 is met (listed below), and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 (listed below) is also met. 2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes. 3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed. 4. Personal data shall be accurate and, where necessary, kept up to date. 5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes. 6. Personal data shall be processed in accordance with the rights of data subjects under the Act. 7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data. 8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data. • Personal data shall not be processed unless at least one “Schedule 2 condition” is met. These are, in summary:- <ol style="list-style-type: none"> 1. The data subject has given his consent to the processing. 2. The processing is necessary- <ol style="list-style-type: none"> (a) For the performance of a contract to which the data subject is a party, or (b) For the taking of steps at the request of the data subject with a view to entering into a contract. 3. The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.

4. The processing is necessary in order to protect the vital interests of the data subject.
5. The processing is necessary-
 - (a) for the administration of justice,
 - (b) for the exercise of any functions conferred on any person by or under any enactment,
 - (c) For the exercise of any functions of the Crown, a Minister of the Crown or a government department, or
 - (d) For the exercise of any other functions of a public nature exercised in the public interest by any person.
6. The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

If the data being processed is sensitive personal data, it is also necessary to satisfy a Schedule 3 condition. These are, in summary:-

- 1 The data subject has given his explicit consent to the processing of the personal data.
- 2 The processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the data controller in connection with employment.
- 3 The processing is necessary-
 - (a) in order to protect the vital interests of the data subject or another person, in a case where-
 - (i) consent cannot be given by or on behalf of the data subject, or
 - (ii) the data controller cannot reasonably be expected to obtain the consent of the data subject, or
 - (b) in order to protect the vital interests of another person, in a case where consent by or on behalf of the data subject has been unreasonably withheld.
- 4 The processing-
 - (a) is carried out in the course of its legitimate activities by any body or association which is not established or conducted for profit, and exists for political, philosophical, religious or trade-union purposes;
 - (b) is carried out with appropriate safeguards for the rights and freedoms of data subjects;
 - (c) relates only to individuals who either are members of the body or association or have regular contact with it in connection with its purposes; and
 - (d) does not involve disclosure of the personal data to a third party without the consent of the data subject.
- 5 The information contained in the personal data has been made public as a result of steps deliberately taken by the data subject.
- 6 The processing-
 - (a) is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),
 - (b) is necessary for the purpose of obtaining legal advice, or
 - (c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.
- 7 The processing is necessary-
 - (a) for the administration of justice,
 - (b) for the exercise of any functions conferred on any person by or under an enactment, or
 - (c) for the exercise of any functions of the Crown, a Minister of the Crown or a government department.
- 8 The processing is necessary for medical purpose and is undertaken by-
 - (a) a health professional, or
 - (b) a person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional.

- 9 The processing-
- (a) is of sensitive personal data consisting of information as to racial or ethnic origin,
 - (b) is necessary for the purpose of identifying or keeping under review the existence or absence of equality of opportunity or treatment between persons of different racial or ethnic origins, with a view to enabling such equality to be promoted or maintained, and
 - (c) is carried out with appropriate safeguards for the rights and freedoms of data subjects.
- 10 The personal data are processed in circumstances specified in an order made by the Secretary of State for the purposes of this paragraph.
- Data subjects have the right to see data held which relates to them.
 - Data subjects are entitled to certain information. This information consists of the identity of the Data Controller, the purposes for which the data are intended to be processed, and any other information which is necessary in the circumstances to allow the processing to be fair. Exemptions exist to this rule.

Relevant Council Service / ALEO

All Services and ALEOs

CORPORATE SERVICES

1

Function	Management of Public Records
Act	Public Records (Scotland) Act 2011
Content	
<p>The Council has a duty to prepare a records management plan setting out proper arrangements for the management of its public records. The records management plan must be submitted to the Keeper of the Records of Scotland for agreement. The Council must ensure that its public records are managed in accordance with the agreed plan.</p> <p>The records management plan must identify the individual who is responsible for management of the Council's public records, and (if different) the individual who is responsible for ensuring compliance with the plan.</p> <p>The records management plan must include, in particular, provision regarding:</p> <ul style="list-style-type: none">• the procedure to be followed in managing the Council's public records,• maintaining the security of information contained in those records, and• the archiving and destruction or other disposal of those records. <p>The records management plan may make different provision for the management of different kinds of public records (for example, depending on the level of risk associated with different kinds of records).</p> <p>The Council must keep its records management plan under review and if the Keeper so requires carry out a review of the plan by any review date set by the Keeper.</p>	
Relevant Council Service / ALEO	

1

Function	Complaints Handling Procedures
Act	Public Services Reform (Scotland) Act 2010
Content	
<p>Under the Public Services Reform (Scotland) Act 2010 the Council must ensure that:</p> <ol style="list-style-type: none"> 1. it has a complaints handling procedure (CHP) in respect of action taken by it, 2. its CHP complies with the Scottish Public Services Ombudsman’s Statement of Principles concerning such procedures. <p>The Statement of Principles was approved by the Scottish Parliament in January 2011 and can be accessed here - http://www.valuingcomplaints.org.uk/wp-content/media/statement.pdf</p> <p>The Statement of Principles requires that an effective CHP is:</p> <ul style="list-style-type: none"> • user focused • accessible • simple and timely • thorough, proportionate and consistent • objective, impartial and fair <p>and that it should:</p> <ul style="list-style-type: none"> • seek early resolution, and • deliver improvement <p>The Council must submit a description of its CHP, if directed by the SPSO within three months or such other period as may be directed (together with any additional information as the SPSO may subsequently require).</p>	
Relevant Council Service / ALEO	All Services and ALEOs

1

Function	Civil Contingency Planning
Act	The Civil Contingencies Act 2004 ; The Contingency Planning (Scotland)(Amendment) Regulations 2013
Content	<p>The Act and Regulations establish a clear role and set of responsibilities for the Council in emergency planning, resilience and response at a local level. Under the legislation, the Council is a Category 1 organisation and is subject to the full list of civil protection duties:</p> <ul style="list-style-type: none"> • assess the risk of emergencies occurring and use it to inform contingency planning; • develop emergency plans; • develop business continuity management arrangements; • develop arrangements to make information available to the public about civil protection matters; • maintain arrangements to warn, inform and advise the public in the event of an emergency; • share information and co-operate with other local responders; and • provide advice and assistance to businesses and voluntary organisations about business continuity management. <p>Category 1 and Category 2 organisations are required to form local resilience forums in order to help co-ordinate responses at the local level. The Regulations require that plans are in place to determine whether an emergency has occurred, provide training for key staff, and to make provision for ensuring the plan is effective. Procedures must also be in place to review the plan periodically and make sure that it is kept up-to-date.</p>
Relevant Council Service / ALEO	All Services and ALEOs

CORPORATE SERVICES (LICENSING)

1

Function	<p>Licensing and regulation of:</p> <ul style="list-style-type: none"> • Booking Offices; <ul style="list-style-type: none"> ○ i.e. the use of premises for the purpose of carrying on a business which consists of taking bookings, by any means of communication, from members of the public for the hire of a taxi or private hire vehicle. • Market Operators • Taxi Operators and Taxi Drivers • Private Hire Car and Private Hire Car Driver • Public Entertainment (Including Health & Fitness) • Second Hand Dealers • Street Traders • Window Cleaning • Skin Piercing and Tattooing • Public Charitable Collections • Knife Dealers • Metal Dealers (Including Itinerant Metal Dealers) • Boat Hire • Indoor Sports Entertainment Licence • Late Hours Catering Licence • Sex Shops • Change of Director/Partner/Manager of an Existing Licence under the Civic Government (Scotland) Act 1982
Act	Civic Government (Scotland) Act 1982 ("the 1982 Act")
Content	
<ul style="list-style-type: none"> • The above list sets out the full extent of the 1982 Act's licensing regime. • A licence may be granted in terms of the Council's Scheme of Delegated Functions by the Director of Governance and Solicitor to the Council, if there are no objections, representations or adverse comments in respect of the application and it is within the policy of the Council's Licensing and Regulatory Committee ("the Committee"), which is the body responsible for the determination of applications under the 1982 Act. 	

- Where objections or adverse comments are made, or the application is outwith the Committee's policy, the application will be placed before it for a decision. The applicant is given the opportunity to appear before the Committee and make submissions.
- The Council must advise the applicant of the outcome of the decision taken on their application in writing.
- The Committee also considers complaints received in respect of licences issued under the civic licensing regime and has the power to suspend a licence for any period up to the unexpired portion of its duration, or to revoke a licence.
- Please note that the following functions are also licensed and regulated by the Council's Licensing Authority however not under the 1982 Act:-
 - Cinemas are licensed under the Cinemas Act 1985.
 - Theatres are licensed under the Theatres Act 1968.
 - Hypnotists are licensed under the Hypnotism Act 1952.
 - Pet Shops are licensed under the Pet Animals Act 1951 as amended.
 - Zoos are licensed under the Zoo Licensing Act 1981 as amended.
 - Dangerous Wild Animals are licensed under the Dangerous Wild Animals Act 1976.
 - Breeding establishments for dogs are licensed under the Breeding of Dogs Act 1973 as amended.
 - Subject to a number of exceptions, Animal Dealers of young cats or young dogs (less than 84 days old) are licensed under the Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009.
 - Animal Boarding Establishments are licensed under the Animal Boarding Establishments Act 1963.
 - Riding Establishments are licensed under the Riding Establishments Acts 1964 and 1970.
 - Applications for registration regarding the exhibition and training of performing animals are regulated by the Performing Animals (Regulation) Act 1925.
 - Venison Dealers are licensed under the Deer (Scotland) Act 1996.
 - Poisons – The requirement for a Local Authority (acting in its capacity as Licensing Authority) to issue Poisons Registration Certificates and keep a List of those entitled to sell poisons in terms of Part II of the Poisons Act 1972, has now been repealed. Members of the public who wish to possess or use Explosives Precursors and Poisons now require a licence and an associated photographic identification document to do so from the Home Office. Further information on this can be found via the following link: <https://www.gov.uk/government/publications/licensing-for-home-users-of-explosives-precursors/licensing-for-home-users-of-poisons-and-explosive-precursors>

Relevant Council Service / ALEO

Licensing

CORPORATE SERVICES (LICENSING)

1

Function	
Function	Licensing Houses of Multiple Occupancy (HMOs)
Act	Housing (Scotland) Act 2006 ("the 2006 Act")
Content	
<ul style="list-style-type: none"> • The 2006 Act requires that a house in multiple occupancy ("HMO") is licensed. • An HMO is any living accommodation occupied by 3 or more persons who are not members of the same family and the living accommodation concerned is occupied by those persons as their only or main residence. • The Council's Licensing and Regulatory Committee ("the Committee") is the body responsible for the determination of applications for an HMO licence. • The 2006 Act covers many different types of living accommodation which, if the requirements are met, may require an HMO licence, including houses, flats and bedsits as well as other types of residential living accommodation, such as hostels, student halls of residence and staff accommodation in hotels or hospitals. • The 2006 Act details the circumstances in which an HMO is exempt from requiring a licence. These circumstances include, but are not restricted to, an HMO that is occupied by its owner(s) either alone or together with members of their family, and any other persons who are not related to the owner(s) and are members of no more than two other families. • The Committee may determine an application for an HMO licence by granting the licence (with or without conditions) or by refusing to grant it. • However, if there are no representations or adverse comments in respect of the application, it may be granted in terms of the Council's Scheme of Delegated Functions by the Director of Governance and Solicitor to the Council. • The 2006 Act sets out the various grounds upon which an application for an HMO licence may be refused. • Once granted, an HMO licence is capable of being varied or revoked. 	
Relevant Council Service / ALEO	Licensing

CORPORATE SERVICES (LICENSING)

1

Function	Registration of Private Landlords
Act	Antisocial Behaviour etc. (Scotland) Act 2004 ("the 2004 Act"); Housing (Scotland) Act 2014
Content	<ul style="list-style-type: none">• The 2004 Act covers a wide range of matters including the application of those seeking to be entered on to the local authority's register of private landlords ("the Register").• While the Council's Private Landlord Registration Unit ("PLRU") deals with the application and general registration process in relation to this matter, the Council's Licensing and Regulatory Committee ("the Committee") deals with referrals from the PLRU with concerns regarding both new and existing applicants' fitness. The Committee will then consider referrals which are received with a view to determining whether or not the applicants are fit and proper persons to either be entered on to the Register or to remain on the Register.• The Housing (Scotland) Act 2014 has amended the 2004 Act, introducing a power for the local authority to pay a share of Tenement Management scheme costs where an owner is unable or unwilling to pay for maintenance, or cannot be identified or found. The local authority may then recover costs from the owner.

CORPORATE SERVICES (LICENSING)

1

Safety at Sports Grounds	
Function	Regulation of the Safety of Statutorily Defined Sports Grounds
Act	The Safety of Sports Grounds Act 1975 and the Safety of Places of Sports Act 1987
Content	
<p>The Taylor Report into the Hillsborough Disaster in 1989 recommended that each local authority established a Safety Team comprising representatives of the various bodies which have an interest in sports grounds in their area. The Council's Safety Team is chaired by the Legal Manager for Licensing and includes representatives from Building Control, Police Scotland, the Scottish Fire and Rescue Service and the Scottish Ambulance Service.</p> <p>The Safety Team is responsible for making recommendations to the Committee in relation to the granting of applications for General or Special Safety Certificates in respect of sports grounds (stadia with a capacity of more than 10,000 spectators) and applications for the granting of General Safety Certificates in respect of regulated stands (stands which have a capacity of 500 or more spectators).</p>	
Relevant Council Service / ALEO	Licensing

CORPORATE SERVICES (LICENSING)

1

Gambling	
Function	Regulation of Gambling
Act	Gambling Act 2005 ("the Act")
Content	
<ul style="list-style-type: none"> • The Licensing Board is responsible for processing and determining applications for Premises Licences authorising gaming and gambling activities within premises e.g. casinos, bingo halls, betting shops, adult gaming centres and family entertainment centres, which are premises other than an adult gaming centre, which are wholly or mainly used for making gaming machines available for use. • The Licensing Board also has a statutory responsibility to issue permits for prize gaming, licensed premises gaming machine permits, club gaming permits and club machine permits, as well as non-commercial society lotteries. The Licensing Board also issue occasional use notices used for gaming on unlicensed premises and temporary use notices in relation to unlicensed betting premises. • In exercising most of its functions under the Act, the Licensing Board are required to have regard to the Licensing Objectives set out in the Act which are: <ul style="list-style-type: none"> • Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. • Ensuring that gambling is conducted in a fair and open way. • Protecting children and other vulnerable persons from being harmed or exploited by gambling. • The Board is required to produce a Licensing Policy Statement every three years setting out how it intends to exercise its functions. The current version was published in 2016 and can be accessed via the following link: https://www.glasgow.gov.uk/index.aspx?articleid=17701 	
Relevant Council Service / ALEO	Licensing

CORPORATE SERVICES (LICENSING)

1

Alcohol Licensing	
Function	Regulation of the Sale of Alcohol and Licensed Premises Where Alcohol is Sold
Act	Licensing (Scotland) Act 2005 as amended ("the 2005 Act")
Content	
<p>The City of Glasgow Licensing Board ("the Licensing Board") is a quasi-judicial body which is a separate legal entity from the Council.</p> <p>Members of the Licensing Board are drawn from elected members of Glasgow City Council ("the Council").</p> <p>The Council is responsible for providing all resources to the Licensing Board, including staff and services and is required to appoint a Clerk to the Board who must be a qualified solicitor or advocate.</p> <p>In exercising its functions, the Licensing Board must have regard to the Licensing Objectives set out in the 2005 Act which are:</p> <ul style="list-style-type: none"> • Preventing crime and disorder; • Securing public safety; • Preventing public nuisance; • Protecting and improving public health; • Protecting children and young persons from harm. <ul style="list-style-type: none"> • The Licensing Board is responsible for determining applications in relation to the types of licence available under the 2005 Act, including the grant, variation and review of licences. • The main types of licence available are: <ul style="list-style-type: none"> ○ Premises Licence: Authorises the sale of alcohol on the premises. This includes both on and off sales. ○ Provisional Premises Licence: Is applied for in situations where at the time the application is made, the premises are yet to be, or are in the course of being constructed or converted for use as licensed premises. A Provisional Premises Licence does not enable the licence holder to authorise the sale of alcohol on the premises. To do this, the Provisional Premises Licence must be confirmed by the Licensing Board that issued it. Confirmation must take place within four years of the date of the issue of the licence (known as the "provisional period.") ○ Occasional Licence: Authorises the sale of alcohol for a limited period (no longer than 14 days) from premises which are unlicensed. 	

- Extended Hours Application: Authorises the extension of the licensed hours attributed to a licensed premises. The application requires to be made by the licence holder and may be granted by the Licensing Board if it considers it appropriate to do so in connection with a special event or occasion to be catered for on the premises, or a special event of local or national significance.
- Personal Licence: Authorises an individual to supervise or authorise the sale of alcohol.

An application to vary a Premises Licence may be made to the Licensing Board by the licence holder. There are two types of variation – minor and major. Further details on minor and major variations can be found by clicking on the following link: <http://www.glasgow.gov.uk/CHttpHandler.ashx?id=35644&p=0>

- Any person may apply to the Licensing Board in respect of any licensed premises within the Board's remit for a review of the Premises Licence on any of the statutory grounds for review listed within the 2005 Act.
- In determining an application for the review of a Premises Licence, the Licensing Board has the power to:-
 - Issue a warning to the holder of the licence;
 - Vary the terms of the licence;
 - Suspend the licence for such period as the Board may determine;
 - Revoke the licence.

The Licensing Board is required to produce a Licensing Policy Statement every three years setting out how it intends to exercise its functions. In exercising their functions under the 2005 Act, the Licensing Board must have regard to the Licensing Policy Statement and any Supplementary Licensing Policy Statement that may have been issued during the relevant three year period. The current version was published in 2013 and can be accessed via the following link:

<https://www.glasgow.gov.uk/CHttpHandler.ashx?id=17578&p=0>

- The Council is responsible for employing Licensing Standards Officers under the 2005 Act. General functions of a Licensing Standards Officer include ensuring the compliance of licence holders with any conditions that may be attached to their licence and any other requirements placed upon licence holders by the 2005 Act.

Relevant Council Service / ALEO

Licensing

CORPORATE SERVICES (LICENSING)

1

Alcohol and Civic Licensing	
Function	Alcohol and Civic Licensing Regimes
Act	Immigration Act 2016 ("the 2016 Act")
Content	
<p>The 2016 Act makes provision for, among other things, access to licences and work, by reference to an individual's immigration status. The 2016 Act makes amendments to the documentation required in relation to applications and licences for Taxi Drivers and Private Hire Car Drivers in addition to applications for Booking Offices and Late Hours Catering licences. Similar amendments are also made in relation to a number of provisions in alcohol licensing. The amendments contained within the 2016 Act, as they relate to Licensing, have been drafted in order to prevent illegal working within the UK. At present, only the provisions in relation to applications for Taxi and Private Hire Car Drivers have been implemented. This means that all individuals seeking to renew or apply for the grant of a Taxi or Private Hire Car Driver's Licence will require to provide confirmation of their right to work in the UK at the point of application.</p>	
Relevant Council Service / ALEO	Licensing

CORPORATE SERVICES (LICENSING)

1

Regulatory Reform	
Function	Regulatory Reform
Act	Regulatory Reform (Scotland) Act 2014
Content	
<p>The primary purpose of the 2014 Act is to improve the way regulation is developed and applied in Scotland in order to create more favourable business conditions and deliver benefits for the environment.</p> <p>Under the Act, the Council is classed as a regulator and as such it has a duty to contribute to achieving sustainable economic growth in carrying out its regulatory activity. This duty would impact upon, for example, the Council's Trading Standards, Environmental Health and Licensing functions as well as any others where it acts as a regulator of business activity.</p> <p>In addition, the Act also includes:</p> <ul style="list-style-type: none"> • powers whereby the Scottish Ministers may make regulations which they consider will encourage or improve consistency in the exercise of regulatory functions • powers for the Scottish Ministers to issue and revise a Code of Practice in relation to the exercise of regulatory functions • powers for the Scottish Ministers to nominate a particular local authority to be the "primary authority" for the exercise of any relevant function in relation to a regulated person. The primary authority has the function of giving advice and guidance in relation to a particular regulated function and may make arrangements for example to allow businesses to receive tailored support from local authorities in relation to regulated activities. 	
Relevant Council Service / ALEO	Licensing / LES

2

Development and Regeneration Services (DRS) is the Council's in-house service for securing Glasgow's ongoing development and regeneration.

This involves the delivery of a number of core services:

- economic and social development
- planning services (including development management, building control and public safety, property information and mapping)
- housing investment and development
- transport and environmental policy
- project management and design
- economic regeneration
- small business support

DRS works closely with partners within the public, private and voluntary sectors, and works with key stakeholders to fulfil its remit. It leads on a number of key partnerships that are vital to Glasgow's ongoing renewal, and has a major role in the delivery of the Council's Capital Programme.

In addition, DRS manages the Private Sector Housing Grant Programme and Housing Development Programme.

2

Function	Economic regeneration
Act	Local Government in Scotland Act 2003
Content	
<p>The Council's economic powers are now contained within the power to advance wellbeing in Section 20 of the Local Government in Scotland Act 2003</p> <p>This includes power to promote economic development. Economic support may be given by way of grant, loan, guarantee or indemnity as part of a financial package, or contributions in cash or kind. There are certain limitations in the exercise of the power so legal advice should be taken in relation to any specific circumstances.</p>	
Relevant Council Service / ALEO	DRS

2

Function	Planning matters
Act	Town and Country Planning (Scotland) Act 1997 The Conservation (Natural Habitats, &c.) Regulations 1994
Content	<ul style="list-style-type: none"> ▪ The Council may grant planning permission unconditionally or subject to conditions or the Council may refuse planning permission. ▪ The Council must keep a record of planning applications. ▪ The Council shall prepare local development plans for its area at intervals of no more than 5 years and the Council must keep the plans under review. ▪ The development plan must include policies requiring all developments to be designed to ensure new buildings avoid a specified proportion of the projected greenhouse gas emissions from their use. ▪ If the Council is of the opinion that a development will not be completed within a reasonable period it may serve a notice stating that planning permission will cease to have effect at the expiration of a period not less than 12 months later. ▪ The Council can issue an enforcement notice if it appears there has been a breach of planning control and it is expedient to issue a notice. <ul style="list-style-type: none"> ○ The notice shall specify the steps the Council requires to be taken or the activities it requires to cease. ▪ The Council can authorise a person to enter land at a reasonable hour to ascertain if there has been a breach of planning control. ▪ The Council has a duty wherever possible when granting permission for a development that adequate provision is made for the preservation or planting of trees. ▪ The Council may make tree preservation orders specifying any trees, groups of trees or woodlands that should be preserved. ▪ If any part of the Council area is adversely affected by the condition of any land the Council may serve on the owner, lessee and occupier a notice requiring such action of abating the adverse effects. ▪ The Council has a duty when granting permission for a development to ensure that adequate provision is made for the conservation of biodiversity as identified in The Habitats Regulations 1994 (as amended in Scotland) to provide the protection afforded to European Protected Species (EPS) of animals and plants and the Wildlife & Countryside Act 1981 (as amended in Scotland), and Protection of Badgers Act 1992 as amended by the Nature Conservation (Scotland) act 2004.
Relevant Council Service / ALEO	DRS

2

Function	Planning matters
Act	Planning etc. (Scotland) Act 2006
Content	
<p>The Council's statutory responsibilities in relation to planning matters can be split into 3 categories:</p> <ol style="list-style-type: none"> The Development Plan – Councils are required to prepare a Development Plan for their areas. Development Management – This is the process for making decisions on planning applications. Legislation requires that decisions on planning applications be guided by the policies in the Development Plan. Enforcement – This is the process that ensures development is carried out correctly and which can be used to take action when it has not. <p>1. The Development Plan Councils must prepare a Development Plan for their areas. This document sets out the Council's plan for how different sites within its area should develop in future. It provides information on what type of development should take place (and where), and which areas should not be developed.</p> <p>The Council must prepare a Development Plan at least every five years. The Council must use the policies set out in the Development Plan to decide how to respond to planning applications (see below). The Council's current Development Plan, "Glasgow City Development Plan" was adopted on 29 March 2017. This replaces the previous development plan, Glasgow City Plan 2.</p> <p>The Council also has a Local Development Plan setting out where most new developments are proposed and the policies to guide its planning decisions, and a Strategic Development Plan setting out the long term strategy for the Glasgow city region.</p> <p>Councils may also provide supplementary guidance, such as development briefs or master plans for particular sites, and more detailed policies.</p> <p>2. Planning Applications</p> <p>The Council deals with planning applications for developments within its area and must decide whether to grant or refuse planning permission. All planning applications must be determined by the Council in accordance with its Development Management Plan unless there are material planning</p>	

considerations which would dictate otherwise. Where the Council proposes to derogate from the Development Management Plan, advice should be taken from the planning officers and from legal services.

Applications for major developments, or applications to which there are multiple objections are decided by the Council's Planning Applications Committee. Applications for smaller local developments may be decided at a delegated level by a planning officer.

When the Council receives an application for planning permission it must manage the process by undertaking, as appropriate: neighbour notification, newspaper advertisements, maintaining a register of planning applications and making it available for public inspection. This process is managed by the Council's planning officers.

In making its decisions, the Council may grant planning permission without conditions, grant planning permission with conditions, or refuse planning permission.

Normal timescales for decision making are usually two months for local development applications and four months for major developments. The timescale begins from the date on which all the legally required information is received by the Council. If the Council doesn't decide the application within the prescribed timescale, the Applicant can request a review.

The Council must issue its decision notice, unless the application is referred to the Scottish Ministers for decision. The Council must inform all parties that commented on the application of its decision.

National applications require, as part of the decision-making process, that all interested parties (mainly applicants, objectors and consultees) are offered the opportunity of being heard at a Pre-Determination Hearing. In cases where an opportunity to attend a Pre-Determination Hearing has been provided, the application must be decided by full Council. The Pre-Determination Hearing is held before the Planning Applications Committee which then refers the matter to full Council for decision.

If an applicant wants to review or appeal the decision, then they can appeal either to a local review body or the Scottish Ministers. The relevant appeal body is as follows:

<u>Original Decision Maker</u>	<u>Appeal Body</u>
Planning Officer	Local Review Body (made up of Councillors)
Planning Applications Committee	Scottish Ministers

There are a number of circumstances where the Council must refer an application to the Scottish Ministers. These are set out in SPS Planning Circular 3/2009. These circumstances include where an application is subject to the requirements of Pre-Determination Hearings. In any such case, notification that the planning authority is minded to grant an application needs to be made after the decision of the full Council. Other categories requiring referral to the Scottish Ministers, are:

Category 1: Any development in which planning authorities have an interest and the proposal is significantly contrary to the Development Plan.

Category 2: Where the application has attracted an objection from a government agency (eg Scottish Natural Heritage, Scottish Environmental Protection Agency).

Category 3: Some open cast coal and related minerals applications (although these are very rare in Glasgow).

3. Enforcement

Where development takes place without the relevant permission, the Council may use its enforcement powers which include requiring a retrospective planning application, further information about the development, that the development cease, payment of fixed penalties or prosecution through the Courts. A final sanction is to demolish the illegal development and recover costs.

Councils must publish a planning enforcement charter explaining how their enforcement system operates.

Relevant Council Service / ALEO	DRS
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2

Function	Listed buildings
Act	Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
Content	
<ul style="list-style-type: none"> ▪ The Council can request that a building within its area is deemed a listed building by Historic Environment Scotland (HES) if it appears that the building is of special architectural or historical interest and is in danger of demolition or alteration in such a way as to affect its character as a building of interest. ▪ Any demolitions, alterations or extensions to listed buildings require consent from the Council or from the Scottish Ministers. If consent is granted it may be subject to conditions. Notice of any demolition proposals must be given to HES. ▪ The Council can determine which parts of its area are of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance, and designate such areas as conservation areas. ▪ It is the duty of the Council to formulate and publish proposals for the preservation and enhancement of any parts of its area which are conservation areas. ▪ In considering planning applications submitted in relation to conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. 	
Relevant Council Service / ALEO	DRS

2

Function	Local Housing Strategies; Grants for housing purposes; housing renewals; improvement and demolition of houses; maintenance scheme of assistance for housing purposes
Act	Housing (Scotland) Act 1987 , Housing (Scotland) Act 2001 and Housing (Scotland) Act 2006 ; Housing (Scotland) Act 2014
Content	
<p>The Council must assess housing provision and the provision of related services in its area every five years. Section 89 of the 2001 Act lists the duties with which the Council must comply in preparing its local housing strategy. The assessment must include the following:</p> <ul style="list-style-type: none"> • the nature and condition of the housing stock • the needs of persons in the area for housing accommodation • the demand for, and availability of, housing accommodation • the needs of persons in the area for, and the availability of, housing accommodation designed or adapted for persons with special needs, and • any other matter specified in the requirement. <p>The local housing strategy must set out the Council's policy for:</p> <ul style="list-style-type: none"> • exercising its functions, and • co-ordinating the exercise of those functions and the functions / activities of registered social landlords and other persons concerned (in whatever way) with housing provision and the provision of related services, with a view to providing housing and related services in an economic, efficient and effective manner and so as to ensure (so far as reasonably practicable) that persons do not live in fuel poverty. <p>There are duties upon local authorities to:</p> <ul style="list-style-type: none"> • undertake strategic planning to achieve better quality housing • publish a "Scheme of Assistance" i.e. a statement of criteria for providing assistance that reflects the full range of the local authority's policies for dealing with private sector condition • rehouse displaced residents as a result of implementation of a Housing Renewal Area Action Plan • provide grant assistance for adaptation works (standard amenities) to meet the needs of a disabled person • provide information to potential buyers (Property Enquiry Certificates) 	

Local authorities have powers to:

- deal with sub-standard housing (such as bringing it into and keeping it in a reasonable state of repair)
- enforce repair and maintenance of buildings (see next section)
- designate Housing Renewal Areas (includes demolition powers)
- carry out works to bring a private rented property up to the Repairing Standard following the service of a Repairing Standard Enforcement Order (Private Rented Housing Panel)
- make available grants / loans for housing purposes
- take enforcement action in relation to Houses in Multiple Occupation
- declare an Enhanced Enforcement Area
- apply to the Private Rented Housing Panel for a determination on whether a private landlord has failed to comply with his or her duties.

Relevant Council Service / ALEO

DRS

2

Function	Buildings in need of repair; power to enter, execute works and recover costs; street names; display of advertisements
Act	Civic Government (Scotland) Act 1982
Content	<ul style="list-style-type: none"> ▪ Should a building become dangerous, the Council can instruct any necessary action to protect the public and adjacent property. Where the situation is less critical a procedure for issuing written notices to the owner(s) of the building is followed and if satisfactory action is not taken then the Authority may carry out the work and recovers costs. ▪ The Council may erect, maintain or permit the erection or maintenance of any statue or monument in any public space. ▪ The Council may in relation to any road in its area give such name to it as it thinks fit and affix, paint or mark its name on fences, lamp posts and other structures. ▪ The Council has the power to make rules to regulate the use of, and conduct of persons while in, any land or premises which is owned, occupied or managed by the authority. ▪ The Council may enter into agreement with any person for the display of advertisements on or in any land or structure vested in or maintained by the authority.
Relevant Council Service / ALEO	DRS

2

Function	Building standards; building warrants
Act	Building (Scotland) Act 2003
Content	
<p>The Council must:</p> <ul style="list-style-type: none"> ▪ maintain building standards registers which contain information on matters including applications for building warrants and completion certificates; ▪ carry out building standards assessment if requested to do so by the owner of a building; ▪ process building warrants for checking building design and construction; ▪ ensure that Building Warrant Applications comply with Building Regulations for many classes and types of building, whether public or private and includes housing, commercial, industrial buildings, etc. ▪ Where it appears to the Council that a building constitutes a danger to persons in or about it or to the public generally or to adjacent buildings the council has a duty to carry out such work (including, if necessary, demolition) as it considers necessary to prevent access to the dangerous building and to any adjacent parts of any road or public place which appear to the authority to be dangerous by reason of the state of the building. <p>The Council may:</p> <ul style="list-style-type: none"> ▪ recover from the owner of the dangerous building any expenses reasonably incurred in carrying out these works; ▪ Where the Council considers that urgent action is necessary to reduce or remove the danger it may, as the circumstances permit, carry out such work (including, if necessary, demolition) as it considers necessary to reduce or remove the danger. ▪ The Act empowers the Council to take enforcement action where work is carried out without a Building Warrant or contrary to Building Warrant conditions. 	
Relevant Council Service / ALEO	DRS

2

Function	Powers and duties in relation to the provision of housing
Act	Housing (Scotland) Act 1987
Content	
4.1	The 1987 Act imposes certain duties on local authorities and confers certain powers in relation to housing in its areas. These duties and powers include:
4.2	Specific Duties:
4.2.1	Every local authority has a duty to consider the need for further housing accommodation in its area;
4.2.2	To have regard to the amenities of the locality;
4.2.3	To take action in relation to homelessness and threatened homelessness;
4.2.4	To inspect houses of non-tolerable standards (and to secure that all houses in their district which do not meet the tolerable standard are closed, demolished or brought up to the tolerable standard within such a period as is reasonable in all circumstances);
4.2.5	To inspect overcrowding and the provision of information to tenants and landlords;
4.2.6	To offer home loans and financial assistance in special cases; and
4.2.7	To offer local authority grants for improvement, repair and conversion in prescribed cases.
4.3	Powers:
4.3.1	To provide accommodation, shops, facilities and welfare services;
4.3.2	To acquire and dispose of land in connection with the provision of housing;
4.3.3	To arrange execution of works of sub-standard housing;
4.3.4	Repair of housing in serious disrepair;
4.3.5	To take action in relation to making demolition and closing orders;
4.3.6	To take action in relation to houses of multiple occupation and overcrowding; and
4.3.7	To offer home loans, grants and other forms of financial assistance for home improvements etc.
<p>The 1987 Act gives local authorities the power to provide housing in its area. However, the exercise of these powers would require the Council to maintain a Housing Revenue Account (HRA) under section 203 of the 1987 Act. The duty to maintain a HRA ceased on 1 April 2004 by virtue of the Housing (Scotland) 2001 (Alteration to Housing Finance Arrangement) Order 2004. Any income and expenditure which would</p>	

previously have been accounted for in the HRA now falls to be paid into or out of the General Fund.

Relevant Council Service / ALEO	DRS
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2

Function	Private Landlord Registration
Act	Antisocial Behaviour etc. (Scotland) Act 2004
Content	
<p>The Council must maintain a register of private landlords, and must make this available for public inspection at all reasonable times.</p> <p>On receiving application for registration, the local authority must determine whether a landlord is a fit and proper person. In coming to this decision, the Council must have regard to a number of factors outlined in the Act.</p> <p>Where a person is no longer a fit and proper person to be a landlord, the local authority shall remove them from the register of landlords.</p> <p>Where the Council is satisfied that a landlord is not registered and is leasing the property, the Council may serve a notice that no rent shall be payable to the landlord under the lease.</p>	
Relevant Council Service / ALEO	DRS

12

Function	Rent increases in the private rented sector
Act	The Private Housing (Tenancies) (Scotland) Act 2016
Content	
<p>This Act will allow Councils to apply to the Scottish Ministers to designate areas within their local authority as a 'rent pressure zone'. This can be used where rents in an area are rising, causing problems for private rented tenants and putting the Council under pressure to provide housing or housing subsidies.</p> <p>If an area is designated as a rent pressure zone, the increase in private residential rents during each year will be capped at a level decided by the Scottish Ministers.</p> <p>The provisions will enter into force on 1 December 2017.</p>	
Relevant Council Service / ALEO	DRS

2

Function	Responsibility for safety of stands at sports grounds
Act	Fire Safety and Safety of Places of Sport Act 1987
Content	
<ul style="list-style-type: none"> It is the duty of a local authority to decide which stands at sports grounds in its area are Regulated Stands and to issue Safety Certificates under the applicable statutory procedure (see also Licensing Section Safety of Sports Grounds Act 1975). 	
Relevant Council Service / ALEO	DRS Building Control / Licensing

2

Function	Control of hazardous substances
Act	Planning (Hazardous Substances) (Scotland) Act 1997
Content	
<ul style="list-style-type: none"> ▪ There is a duty on the Council to control hazardous substances through planning. ▪ The presence of a hazardous substance on, over or under land in a particular quantity requires the consent of the planning authority. This enables the Council to control the presence and quantity of such hazardous substances even where the introduction of the substances does not amount to development. It gives the Council as planning authority the opportunity to consider whether the proposed storage or use of a significant quantity of hazardous substance is appropriate to a particular location, having regard to the risks arising to persons in the surrounding area and the wider implications for the community. ▪ A full list of substances that are considered hazardous and the relevant quantity can be found in Schedule 1 of The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993. 	
Relevant Council Service / ALEO	DRS

2

Function	Stair lighting
Act	Civic Government (Scotland) Act 1982
Content	
<ul style="list-style-type: none"> ▪ Under section 90 of the Civic Government (Scotland) Act 1982, the Council has a responsibility to ensure that all owners of common property provide and maintain a satisfactory level of lighting within common stairs and passages and, where they fail to comply, has the power of enforcement. ▪ The Act also allows Councils to offer a Stair Lighting Maintenance Service and remit or part remit the costs of providing the service. The Council offers all property owners in Glasgow a maintenance option that meets the requirements of the Act. This service is available to owners of tenement, desk access and multi-storey properties. ▪ If owners fail to provide an adequate or safe lighting system then the Council has the power of enforcement under Section 90(9) of the Civic Government (Scotland) Act 1982 and is permitted to install a suitable system and charge the owners their share of the costs incurred. ▪ Authorised officers of the Council are entitled to enter any common property to determine the condition of the lighting installation. 	
Relevant Council Service / ALEO	DRS / City Building

3

The main activities and areas of responsibility of Land and Environmental Services (LES) relate to:

- the management, maintenance and development of the local road transport network;
- management of the city's parks, open spaces and play areas; and
- monitoring and maintaining public health and the city environment.

The service has a duty to the general public and the business community to:

- visit, inspect and report on shops, restaurants, hotels, offices and other workplaces to ensure compliance with hygiene and health and safety laws;
- keep the streets clean and dispose of refuse by environmentally friendly means;
- maintain a high standard of public health, monitor air quality and enforce smoke-free legislation;
- maintain fair trading and consumer product safety.

Some legislation in relation to these activities impacts upon City Parking (Glasgow) LLP and Community Safety (Glasgow) LLP which carry out functions in relation to parking enforcement and environmental cleanliness on behalf of the Council.

3

Function	Management and maintenance of roads
Act	Roads (Scotland) Act 1984 ; New Roads and Streetworks Act 1991 ; Road Traffic Regulation Act 1984
Content	
<p><u>Roads (Scotland) Act 1984</u></p> <p>This is the key piece of roads law in Scotland. It sets out the powers and duties of the Council as the local roads authority. The Council has a duty to:</p> <ul style="list-style-type: none"> • manage and maintain all public roads in its area, and keep a list of those roads • determine any applications to it for roads construction consent • provide and maintain lighting for roads maintainable by it, and which in its opinion ought to be lit • protect road users from dangers near a road <p>The Council has powers to:</p> <ul style="list-style-type: none"> • make up and maintain private roads in its area • construct new roads (and where it does so must enter any such road in its list of public roads) • improve or maintain roads (e.g. by altering levels, providing footways, drainage, road humps, other traffic calming measures, and other miscellaneous improvements) • control obstructions and other apparatus placed in a road and provide other forms of control over works and excavations, traffic, vaults and cellars affecting roads • stop up roads and dangerous accesses • make a scheme for constructing a bridge as part of a public road over navigable waters • take steps relating to interference and damage (such as removing builders' skips and other structures, restricting planting on or near a road) • enter on to land for the purpose of surveying, laying apparatus, inspection, carrying out certain activities either in an emergency or upon providing advance notice, and charge a fee in relation to those inspections carried out • exercise power of compulsory purchase (see page 44) <p><u>New Roads and Streetworks Act 1991</u></p> <p>This is a very technical piece of legislation governing the carrying out of roadworks by statutory undertakers</p>	

and others to ensure that such works are carried out safely, with minimal traffic disruption and are re-instated properly.

The Council's powers are to monitor such roadworks and ensure that roads are re-instated to an appropriate standard. This includes power to investigate any re-instatement and require remedial works within a prescribed period.

In cases where there is a danger to road users, the Council may carry out the remedial work itself but in order to recover its costs it must provide notice to the relevant undertaker stating the reason for its actions.

Road Traffic Regulation Act 1984

This Act provides local authorities with powers in relation to:

- making Traffic Regulation Orders when it appears expedient to do so (e.g. for avoiding danger to road users, preventing damage to a road or nearby building, facilitating passage, restricting vehicular use or preserving the character of the road or amenity of the area)
- a TRO may make provisions governing the direction of traffic flow, preventing/restricting waiting and loading/unloading of vehicles, prohibiting the use of a road by traffic or pedestrians, or prohibiting/restricting overtaking, specifying through routes for heavy commercial vehicles

This power includes the power to make experimental Traffic Orders and to regulate traffic in special cases (such as temporary restrictions, road events and counter terrorism).

The Act also provides powers in relation to parking places, including a general power to provide suitable parking places either off-street or on any part of a road within the Council's area.

This power includes power to make an Order relating to the use of a parking place including conditions of use, a power to charge for off-street parking, and to remove any vehicle contravening the Order.

The Council may also by Order make designated parking places on roads in its area and make charges in the prescribed amount for vehicles left in a designated parking place. On-street parking regulation is subject to decriminalised parking enforcement carried out on behalf of the Council by City Parking (Glasgow) LLP. Appeals against penalty charges are dealt with by LES.

An account must be kept of all income and expenditure in respect of designated parking places. Any surplus generated may only be applied for specific purposes including:

- making good the general fund any amount charged to that fund in the 4 years immediately preceding the financial year in question;
- meeting costs of provision and maintenance of off-street parking accommodation
- meeting costs incurred in the provision of public passenger transport services or facilities and road improvement projects in the Council's area.

Relevant Council Service / ALEO	LES
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3

Function	Disposal of waste; recycling of waste; litter penalties; control of dogs
Act	Environmental Protection Act 1990
Content	<ul style="list-style-type: none"> ▪ A local authority has a duty to arrange for the collection of household waste in its area ▪ A local authority has a duty to arrange for collection of commercial waste and non-household dry recyclable waste or food waste if requested by the occupier of premises in its area (at a reasonable charge) ▪ Local authorities are required to meet recycling and composting targets ▪ There is a duty on local authorities to ensure that roads and land under their control and to which the public have access is kept free of litter and refuse ▪ Local authorities have powers to control air pollution from a range of prescribed processes ▪ Local authorities have the power to serve a litter abatement notice if they are satisfied that the relevant land is or is likely to be defaced by litter or refuse <ul style="list-style-type: none"> ○ If a person on whom a litter abatement notice is served fails to comply with the notice, the authority has the power to enter the land and clear the litter and refuse and recover expenses for having done so ▪ If any controlled waste is deposited in or on any land the local authority may, by notice served on him, require the occupier to remove the waste from the land or take steps with a view to eliminating or reducing the consequences of the deposit of the waste. ▪ Local authorities have the power to enforce penalties for littering offences. ▪ There is a responsibility placed on local authorities to deal with contaminated land in accordance with a published Contaminated Land Strategy and maintain a Public Register of Contaminated Land. ▪ Local authorities have a responsibility for dealing with stray dogs. ▪ An appointed local authority officer may seize and detain any dog which is believed to be a stray.
Relevant Council Service / ALEO	LES

3

Function	Delivering the Scottish Government's Zero Waste Plan
Act	The Waste (Scotland) Regulations 2012
Content	<p>The 2012 Regulations make amendments to the Environmental Protection Act 1990. The Regulations impose duties upon the Council to facilitate the separate collection of dry recyclable waste and food waste.</p> <p>Separate collection of dry recyclable waste and food waste.</p> <p>From 1 January 2014, the waste collection authority, i.e. the Council, must undertake the following:</p> <ul style="list-style-type: none"> • Arrange to provide the occupier of every domestic property in its area with a receptacle to allow for the separate collection of dry recyclable waste. <p>This is not required in the following circumstances:</p> <ul style="list-style-type: none"> • Where the property is in a rural area and the Council considers that the separate collection of dry recyclable waste from the property would not be environmentally or economically practicable; • The dry recyclable waste will be deposited at a "bring site", i.e. a location where dry recyclable waste can be deposited into a dry waste stream and is processed by the authority; or • If the Council is satisfied that the dry recyclable waste will not be mixed with other waste that cannot be recycled and that the quality of the recycled material produced will not be significantly lower. <p>Furthermore, the Council must also take such steps as it considers reasonable to: (i) promote separate collection (including the making of arrangements for the provision of a food waste receptacle); and (ii) promote recycling in any other manner.</p> <p>From 1 January 2016, the Council must arrange to provide the occupier of every domestic property in its area with either: (a) a receptacle to allow for the separate collection of food waste from the property or, (b) a receptacle that enables the occupier to fill it with both food waste and other biodegradable waste where this does not significantly reduce the amount of food waste that could be collected under (a).</p>
Relevant Council Service / ALEO	LES

3

Function		Noise control
Act		Antisocial Behaviour, etc. (Scotland) Act 2004
Content		
<p>The Council has the power to apply noise controls to specific areas and at specific times. Council officers have the power to investigate noise complaints. They may also issue a warning notice if the noise is above the allowed level.</p> <p>The Council can serve a fixed penalty notice if noise continues, and should then proceed with prosecution if this remains unpaid. Officers of the Council can also seize and remove any equipment used in the emission of noise.</p>		
Relevant Council Service / ALEO		LES is responsible for industrial and commercial noise complaints. Community Safety Glasgow handles domestic noise complaints

3

Function	Transport Quality Partnerships; Quality Contracts; Ticketing Arrangements/ Schemes etc.
Act	Transport (Scotland) Act 2001
Content	
<ul style="list-style-type: none"> ▪ The Act enables local authorities in the current Strathclyde Passenger Transport area to establish quality partnerships, quality contracts, ticketing arrangements/ schemes and enforcement of bus lane contraventions (e.g. the Council's Statutory Quality Partnership Scheme for Glasgow Streamline Quality Bus Route with SPT). <p><u>Quality Partnership Schemes</u></p> <p>A local transport authority or two or more such authorities acting jointly may make a Quality Partnership scheme covering all or part of their area(s) to implement general transport policies and improve the quality of local services and facilities, or reduce/limit traffic congestion, noise or air pollution.</p> <p>If a QP scheme is proposed, the local transport authority must give notice of the scheme in the form prescribed in the Act and carry out a consultation exercise.</p> <p>If the QP scheme is made, it must set out the specified facilities to be provided by the authority and the specified standard of local services which operators must undertake to provide.</p> <p><u>Quality Contract Schemes</u></p> <p>A local transport authority, or two or more such authorities acting jointly, may make a Quality Contract scheme covering all or part of their area(s) to implement general transport policies in a way that is economic, efficient and effective.</p> <p>In making a QC scheme the authority must comply with the prescribed notice and consultation requirements and obtain the Scottish Ministers' approval.</p> <p>A QC scheme determines what local services should be provided in the area, what standards should apply, and any additional facilities or services which should be provided. Under a QC scheme, certain local services may be provided only under a Quality Contract by which the authority grants an exclusive right to operate the local services on such terms as are specified in the contract (including frequency, fares and service standards).</p>	

Unless otherwise approved by the Scottish Ministers, an authority which has made a QC scheme must not enter into a Quality Contract without first inviting tenders for the provision of the QC local services on the basis set out in the Act. No local service covered by a QC scheme may be provided other than under a Quality Contract while the scheme is in force.

Ticketing Arrangements

Each local transport authority must from time to time determine what ticketing arrangements should be made for their area. Before making any such determination, the authority must consult with local service users representative organisations.

From time to time, the local transport authority must determine whether the required ticketing arrangements are being made available. If they are not, then the authority must seek to make them available via agreements with local service operators.

If satisfactory arrangements can be made, then two or more authorities may make a joint ticketing scheme covering all or part of their area(s) where they consider it is in the public interest and would to any extent implement their relevant general policies.

A ticketing scheme is one whereby the relevant class of relevant service operators are required to make and implement a ticketing scheme.

In making a ticketing scheme the authority must comply with the prescribed notification and consultation requirements.

Civil Penalties for Bus Lane Contraventions

The Act also provides for the Scottish Ministers to make regulations providing for the imposition by approved local authorities of charges in respect of bus lane contraventions and the payment of such charges.

Regulations have been introduced in Glasgow to enable the enforcement of bus lane contraventions under the 2001 Act.

Relevant Council Service / ALEO	LES
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3

Function	Burial grounds and cremations
Act	Local Government (Scotland) Act 1973 , Social Work (Scotland) Act 1968 and the Public Health (Control of Disease) Act 1984
Content	<p>The functions under the Burial Grounds (Scotland) Act 1875 and the Cremation Acts 1902 and 1952 now transfer to and vest in local authorities by virtue of Section 169 of the 1973 Act. However, the Burial and Cremation (Scotland) Act 2016 is now partially in force and will eventually repeal the previous legislation. The powers of the Council to provide and maintain burial grounds or cemeteries (or anything essential or ancillary to such maintenance) extend to and include the provision and maintenance of crematoria.</p> <p>Section 28(1) of the Social Work (Scotland) Act 1968 gives the Council power to bury or cremate the body of any deceased person who was in the care of or receiving assistance from the Council (unless cremation is not in accordance with the person's religious persuasion).</p> <p>Section 46 of the Public Health (Control of Disease) Act 1984 places a similar responsibility on the Council for the burial / cremation of the body of any person who died or was found dead in their area in any case where it appears that no other suitable arrangements are being made.</p>
Relevant Council Service / ALEO	LES

3

Function	Allotments
Act	Community Empowerment (Scotland) Act 2015
Content	
<p>The Council shall take reasonable steps to provide more allotments if waiting lists exceed a certain threshold. The Council must produce an annual allotments report and produce a food growing strategy.</p>	
Relevant Council Service / ALEO	LES

3

Function	Consumer Protection
Act	The Consumer Rights Act 2015
Content	
<p>The Council has a duty to control the supply and marketing of a range of goods / services to the public. A few examples include regulating the composition and content of motor fuels (Clean Air Act 1993), supplying information to the Financial Conduct Authority regarding trading practices control of weighing and measuring equipment for trade use (Weights and Measures Act 1985), although there is a wide range of other activities covered by different pieces of legislation.</p> <p>The legislation in this area also provides the Council with enforcement powers to enable it to take required action against any person suspected of being in breach of the legislation. These can be quite detailed and cover powers to:</p> <ul style="list-style-type: none"> • investigate suspected breaches of legislation; • carry out investigations and inspections; • require sample products or seize and detain goods for testing, or obtain and make copies of documents and other records; • serve Enforcement Notices; and • impose civil penalties. 	
Relevant Council Service / ALEO	LES

3

Function	Public Health and Scientific Services
Act	Public Health (Scotland) Act 2008 ; Environment Act 1995 ; Food Safety Act 1990 (and other related legislation)
Content	
<p>The Public Health (Scotland) Act 2008 places a duty on local authorities to:</p> <ul style="list-style-type: none"> • protect public health • co-operate with Health Boards • produce a joint public health plan with the local Health Board. <p>The Environment Act 1995 places a duty on Councils to:</p> <ul style="list-style-type: none"> • review and assess air quality in its area to determine whether air quality objectives are being met in accordance with statutory guidance • declare air quality management areas where objectives are not met • produce and implement an air quality action plan in pursuit of the objectives <p>The Food Safety Act 1990, requires that the Council must appoint a Public Analyst (Glasgow Scientific Services currently has appointed Public Analysts to serve sixteen Scottish local authorities).</p> <p>The Agriculture Act 1970 also places a duty on the Council to appoint an Agriculture Analyst (Glasgow Scientific Services currently has appointed Agriculture Analysts to serve sixteen local authorities).</p>	
Relevant Council Service / ALEO	LES (through Glasgow Scientific Services)

CITY PARKING (GLASGOW)

LLP

4

Function	
Function	On-street parking enforcement
Act	The Road Traffic Act 1991 (as amended by the Road Traffic (Permitted Parking Area and Special Parking Area)(City of Glasgow) Designation Order 1999)
Content	
The Council has the power to issue a fixed penalty notice to a person responsible for contravention of or non-compliance with an order regulating parking places in its area (e.g. parking without displaying a valid pay and display ticket or the ticket displayed has expired or parking on single or double yellow lines when restrictions apply).	
Relevant Council Service / ALEO	City Parking

4

Function	Bus lane enforcement
Act	The Bus Lane Contraventions (Charges, Adjudication and Enforcement) (Scotland) Regulations 2011 made under the Transport (Scotland) Act 2001
Content	
<p>The Council has the power to issue a fixed penalty notice to the registered keeper of a vehicle in respect of any contravention relating to the use of bus lanes within its area (or, in prescribed circumstances, to the person who had hired the vehicle, or the relevant vehicle trader where the vehicle was either subject to a hiring agreement or was kept by a vehicle trader, respectively). Vehicles permitted to use bus lanes are buses, taxis, licensed private hire cars and pedal cycles.</p>	
Relevant Council Service / ALEO	City Parking and LES

CITY PARKING (GLASGOW) LLP

4

Function	
Function	Removal of abandoned vehicles
Act	Refuse Disposal (Amenity) Act 1978 (and implementing Removal, Storage and Disposal of Vehicles Regulations)
Content	
The Council do remove vehicles on a road or on any land in the open air in the area of the Council when reported, which appear to have been abandoned without lawful authority.	
Relevant Council Service / ALEO	City Parking

COMMUNITY SAFETY GLASGOW (CSG)

5

Function	Issuing of Fixed Penalty Notices-Littering
Act	The Environmental Protection Act 1990
Content	
<p>The Council has the duty to:</p> <ul style="list-style-type: none">▪ Ensure that roads and land under their control and to which the public have access are kept free of litter and refuse <p>The Council has the power to:</p> <ul style="list-style-type: none">▪ Issue a Fixed Penalty Notice for littering	
Relevant Council Service / ALEO	Community Safety Glasgow

COMMUNITY SAFETY GLASGOW (CSG)

5

Function	Issuing of Fixed Penalty Notices – Dog Fouling
Act	The Dog Fouling(Scotland) Act 2003
Content	
<p>The Council has the duty to:</p> <ul style="list-style-type: none"> ▪ Ensure that roads and land under their control and to which the public have access are kept free of litter and refuse <p>The Council has the power to:</p> <ul style="list-style-type: none"> ▪ Issue a Fixed Penalty Notice for dog fouling 	
Relevant Council Service / ALEO	Community Safety Glasgow

6

Function	Acquisition of ancient monuments; power to place ancient monuments under guardianship
Act	Ancient Monuments and Archaeological Areas Act 1979
Content	<p>The Council must:-</p> <ul style="list-style-type: none"> ▪ maintain any monument which is under its guardianship; ▪ control and manage any monument which is under its guardianship; and ▪ do all such things as may be necessary for the maintenance of the monument and for the exercise by it of proper control and management with respect to the monument. <p>The Council may:</p> <ul style="list-style-type: none"> ▪ acquire by agreement any ancient monument situated in or in the vicinity of its area; ▪ accept a gift (whether by deed or will) of any ancient monument; ▪ at any reasonable time enter the site of a monument which is under its guardianship for the purpose of maintenance in relation to the monument and authorise any other person to exercise any of those powers on its behalf; ▪ have full control and management of the monument which is under its guardianship. This includes the power to control the holding of events in or on the monument, to control and manage such events, to require payment of a charge in respect of the holding of such events, to exclude, restrict or otherwise control public access to the monument in connection with such events. ▪ from time to time by order designate as an area of archaeological importance any area within the area of that local authority which appears to it to merit treatment as such.
Relevant Council Service / ALEO	DRS/LES

6

Function	Identification of contaminated land; air quality; waste strategy
Act	Environment Act 1995
Content	
<ul style="list-style-type: none"> ▪ Local authorities must from time to time inspect their areas for the purpose of identifying contaminated land. ▪ If a local authority identifies contaminated land it shall give notice to the appropriate agency, the owner of the land, any person who appears to be in occupation of the land and any person who appears to the authority to be an appropriate person to inform. ▪ The local authority has a duty to serve a notice on the appropriate person specifying what that person needs to do by way of remediation. ▪ Local authorities have a duty from time to time to review the quality of air within the authority's area, and the likely future quality. ▪ Where a local authority conducts a review of air quality, it must assess whether air quality standards and objectives are being achieved. ▪ A local authority has the power to exercise and perform pollution control functions ▪ A local authority has power to carry out investigations in relation to pollution control functions 	
Relevant Council Service / ALEO	DRS/LES

6

Function	Environmental assessments, preparing environmental plans and programmes
Act	Environment Assessment (Scotland) Act 2005
Content	
<ul style="list-style-type: none"> ▪ Local authorities are required to carry out environmental assessments on qualifying plans, programmes or strategies ▪ The local authority in carrying out an environmental assessment, must produce environmental reports, carry out consultations and take account of consultation responses in reaching a final decision to adopt a particular plan or programme ▪ Local authorities must monitor the environmental effects of the implementation of plans that have been subject to environmental assessment 	
Relevant Council Service / ALEO	DRS/LES

6

Function	Local flood risk management plans; flood protection schemes; clearance and repair works
Act	Flood Risk Management (Scotland) Act 2009
Content	<ul style="list-style-type: none"> ▪ Local authorities must prepare plans to manage flood risk. ▪ Local authorities must assess where a body of surface water could give rise to a risk of flooding, and where this is the case, to consider whether clearance and repair works could reduce that risk. ▪ The Act provides local authorities with a broad power to implement measures to manage flood risk. ▪ The Act provides local authorities with powers to make reasonable requests for information, documents and assistance to support the preparation of flood risk management plans. ▪ Local authorities are provided with rights of entry to allow them to carry out flood protection works.
Relevant Council Service / ALEO	DRS/LES

6

Function	Access rights to land
Act	Land Reform (Scotland) Act 2003
Content	
<ul style="list-style-type: none"> ▪ Local authorities have a duty to assert, protect and keep open and free from obstruction or encroachment any route, waterway or other means by which access rights reasonably may be exercised. ▪ Local authorities have a duty to prepare a Core Paths Plan within 3 years of the start of the Act. ▪ Local authorities must also establish a Local Access Forum. ▪ Local authorities have a duty to publicise the Core Paths Plan. ▪ Local authorities have the power to remove prohibition signs or make safe obstructions, dangerous impediments etc. where the owner of the land fails to do so upon service of a notice under the Act. ▪ Local authorities have the power to exempt land from access rights. 	
Relevant Council Service / ALEO	DRS/LES

6

Function	Premises licensing
Act	Licensing (Scotland) Act 2005
Content	
<ul style="list-style-type: none"> ▪ Premises licence applications by members of the public must be accompanied by a planning certificate, building standards certificate and, if food is to be supplied on the premises, a food hygiene certificate. The applicant must have these certificates signed by the appropriate authority as set out in the Act. 	
Relevant Council Service / ALEO	DRS/LES

6

Function	Duties of public bodies relating to climate change
Act	Climate Change (Scotland) Act 2009
Content	
<p>A public body must, in exercising its functions:-</p> <ul style="list-style-type: none"> ▪ act in the way best calculated to contribute to delivery of the Act’s greenhouse gas emissions reduction targets; ▪ act in a way best calculated to deliver any statutory adaptation programme. Statutory adaptation programmes set out objectives, proposals and policies in relation to adapting to climate change; ▪ act in a way that it considers is most sustainable; <p>A local authority must also establish a scheme for reducing the amounts which persons are liable to pay in respect of council tax where improvements are made to the energy efficiency of chargeable dwellings.</p> <p>A planning authority, in any local development plan prepared by them, must include policies requiring all developments to be designed so as to ensure that all new buildings avoid emitting a specified proportion of greenhouse gases from their use through the installation of low carbon technologies.</p>	
Relevant Council Service / ALEO	DRS / LES

6

Function	Heat and Electricity
Act	Local Government (Scotland) Act 1973 ; Sale of Electricity by Local Authorities (Scotland) Regulations 2010
Content	
<p>The main powers in relation to local authority functions regarding heat and electricity are set out in Section 170A of the Local Government (Scotland) Act 1973. Except in relation to restrictions on the sale of electricity, these powers are without prejudice to the exercise of any other power that may be available apart from this Section. Section 170A of the Local Government (Scotland) Act 1973 provides the relevant statutory authority to carry out certain functions in relation to heat and electricity.</p> <p>In summary, Section 170A permits the Council to:</p> <ul style="list-style-type: none"> • produce heat or electricity or both • establish and operate generating stations or installations for such production • buy or otherwise acquire heat • use, sell or otherwise dispose of heat produced or acquired or electricity produced by the Council by virtue of Section 170A • enter into and carry out agreements for the supply of such heat to premises within or outside of the Council's area <p>Section 170A of the Local Government (Scotland) Act 1973 permits the sale of heat or (subject to restrictions on how it was <i>produced</i>) electricity to public and private sector third parties. A local authority may not purchase electricity under Section 170A or sell electricity it has acquired. Section 170A(3) limits the power to sell electricity to where it has been produced (a) from waste, (b) in association with heat, or (c) as may otherwise be prescribed (e.g. from certain specified renewable sources - wind, solar, biomass, landfill gas, etc. - see Sale of Electricity by Local Authorities (Scotland) Regulations 2010)</p> <p>In relation to heat infrastructure, Section 170A(4) provides power to:</p> <ul style="list-style-type: none"> • construct, lay and maintain pipes and associated works for the purpose of conveying heat produced or acquired by the Council, and • contribute towards costs incurred by another person in providing or maintaining pipes or associated works connected with pipes provided by the Council. <p>Section 170A(5) provides power to break open roads to lay pipes and carry out associated works.</p>	

Section 170B(1) provides power to make byelaws regarding works/apparatus to be provided/used by other persons in connection with supply of heat, hot air, hot water or steam supplied by the Council under Section 170A.

Relevant Council Service / ALEO	DRS / LES
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6

Function	
Function	The promotion of compulsory purchase orders and compensation
Act	Local Government (Scotland) Act 1973 and various empowering acts such as Town and Country Planning (Scotland) Act 1997 , Housing (Scotland) Act 1987 , Building (Scotland) Act 2003 and Roads (Scotland) Act 1984 and Acquisition of Land (Authorisation Procedure)(Scotland) Act 1947
Content	
<p>Local authorities have the power to make (i.e. promote) Compulsory Purchase Orders and in certain circumstances have the right to promote Compulsory Purchase Orders for the ultimate benefit of a third party;</p> <ul style="list-style-type: none"> ▪ The most general power is contained within the Local Government (Scotland) Act 1973 but it is not recommended in the normal course that this general power be relied on. In practice the empowering act is the one which relates to the purpose for which the power is exercised e.g. in the event of the Local Authority as Roads Authority seeking to build a road and requiring to exercise the power of compulsory purchase in order to obtain the land interests required the empowering legislation would be the Roads (Scotland) Act 1984 ; ▪ It should be noted that the empowerment in some of the legislation is given to the Local Authority in its specific function e.g. as Planning Authority in terms of the Town and Country Planning (Scotland) Act 1997 or as Roads Authority in terms of the Roads (Scotland) Act 1984; ▪ Scottish Ministers are the decision makers on whether or not a Compulsory Purchase Order made by a Local Authority is confirmed (i.e. approved). ▪ Parties who have lost an interest as a result of the Compulsory Purchase Order are entitled to make a claim for compensation and the Local Authority promoting the Compulsory Order in question has a duty to pay compensation which is competently claimed. The Lands Tribunal is the body with the final determining powers of the appropriate level of compensation in the event of there being a failure to reach agreement. 	
Relevant Council Service / ALEO	DRS/LES

6

Function	
Function	Biodiversity duty
Act	
Act	Nature Conservation (Scotland) Act (2004) Wildlife and Natural Environment (Scotland) Act 2011
Content	
<p>The Nature Conservation (Scotland) Act (2004) created a duty on public bodies, including Glasgow City Council, to “further the conservation of biodiversity as far as is consistent with the proper exercise of those functions.” In so doing, public bodies must have regard to the UN Environmental Programme Convention on Biological Diversity. A further consequence of the legal duty is that a GCC Biodiversity Duty Plan will require to be produced for the next three year reporting period 2014/15 - 2016/17.</p> <p>The Wildlife and Natural Environment (Scotland) Act 2011 (WANE Act) amends the Nature Conservation (Scotland) Act (2004) and places an additional obligation on public bodies to report on compliance with the Biodiversity Duty every three years.</p> <p>The Council recognises that biodiversity cuts across numerous work programmes, policies, strategies and legislation that are outwith the scope of the Local Biodiversity Action Plan (LBAP).</p> <p>The Natural Environment Framework portal has been developed by Glasgow City Council to mainstream biodiversity to ensure natural resources are protected, sustainably managed and enhanced through the decision making processes of the Council.</p>	
Relevant Council Service / ALEO	
DRS / LES	

7

Education Services has a responsibility to plan, review and improve its services to ensure they meet the needs of Glasgow's children and young people. In particular it is responsible for the following:

- early years, including extended services (see the Council's Early Childhood and Extended Services Strategy)
- primary schools, including those for children with additional support needs
- secondary schools, including those for children with additional support needs
- psychological services
- vocational education
- working with a range of partners including social work services, the college sector and voluntary organisations

Some legislation in relation to education also impacts upon Cordia (Services) LLP which carries out functions in relation to health promotion and nutrition in schools on behalf of the Council.

7

Function	Broad Duties Regarding Education
Act	Education (Scotland) Act 1980 Education (Placing in Schools etc. Deemed Decisions) (Scotland) Regulations 1982 Standard in Scotland's Schools Act 2000 Education (Scotland) Act 2016
Content	<p>Every child of school age has the right to be educated. A child is of school age if he/she has attained the age of 5 but has not attained the age of 16 years. The term "young person" applies to a pupil over school age, but who has not attained 18 years. The education authority has a duty to provide education to any young person who is still a school pupil.</p> <p>The Education Authority has the duty to:</p> <ul style="list-style-type: none"> ▪ Provide adequate and sufficient provision of school education and further education in its area (usually without payment of fees if pupil belongs to its area). This duty does not include "further education" within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992 (which is a programme of learning, not being school education, provided for persons over school age). Further details on this definition are contained within section 6 of the 1992 Act. ▪ Secure adequate facilities for social, cultural and recreation activities and for physical education and training for pupils in attendance at its schools ▪ Decide what amount of public school accommodation is required for its area and in doing so shall have regard to and take into account every school, whether public or not ▪ Provide a child guidance service ▪ Ensure that religious observance/instruction must not be discontinued by the education authority unless by resolution voted for by a majority of the voting electors in the education area ▪ Appoint a supervisor of religious instruction without remuneration for each denominational school and have facilities for the holding of religious examinations within the school ▪ Submit to the Secretary of State for his consent certain proposals in relation to denominational schools ▪ Ensure that every public/grant aided school shall be open to pupils of all denominations and any pupil may be withdrawn by his parents from the religious observance or religious instruction ▪ If a pupil is unable or it is unreasonable to expect them to attend an educational establishment due to prolonged ill health, without undue delay, make special arrangements for the pupil to receive education elsewhere ▪ If a pupil is excluded or withdrawn from a public school in its area, without undue delay, provide school

education

- Provide books, writing materials, stationery, mathematical instruments, practice materials and other articles necessary to enable pupils to take full advantage of the education provided
- Provide, maintain and equip schools and other educational establishments

- Have regard to the wishes of parents regarding the education of their child
 - Place a child in a school as requested by its parents unless certain circumstances apply e.g. the capacity of the school would be exceeded, the Council would require to employ an additional teacher etc
 - If the education authority receives a placing request on or before 15th March in any year with respect to a child, or, as the case may be, young person, requesting a place in the school specified in the placing request for commencement at the school for the first term of the next school year, the Authority must respond by 30th April of that year.
 - In the case of any other placing request, the Authority must respond within the period of 2 months immediately following receipt by the authority of the placing request.
 - If the Authority does not respond within the statutory timescales, the placing request is deemed to have been refused.

 - Publish or make available information on the arrangements of placing children in schools
 - Fix a school commencement date
 - Fix the latest date on or before which a child must attain the age of 5 to be of sufficient age to commence primary school
 - If a parent fails to secure regular attendance of a child at a public school (ie a school under the management of an education authority) without reasonable excuse and the authority considers that an offence has been committed it must serve a notice on the parent requiring them to explain the reason for the absence of the child
 - Where a child of school age has not attended a public school in the area in which their parent is residing and if the authority is satisfied that a parent is not providing efficient education for the pupil the authority must serve a notice requiring the parent either to appear and provide information or give the information in writing. If the parent fails to satisfy the authority the authority shall make an attendance order
 - Safeguard and promote the welfare of any child or young person who has been provided with residential accommodation for the purpose of being in attendance at a school
- Provide suitable transport if certain criteria are met.
- When it is brought to the attention of an education authority that a pupil attending a school is unable by reason of inadequacy or unsuitability of his clothing to take full advantage of the education provided, the education authority shall make such provision for the pupil for the purpose of ensuring that he is sufficiently and suitably clad as it may deem necessary.

- The Education Authority may:
 - Provide suitable clothing for physical exercise or other activities for which special clothing is desirable for pupils
 - Grant exemptions for the obligation to attend school if the Council is satisfied by reason of any circumstances existing at the home of a child over the age of 14 that it would cause exceptional hardship to require that child to attend school
 - Establish, maintain and manage camps, outdoor centres, playing fields and swimming pools, play areas and centres, sports halls, centres and clubs, youth community, cultural centres and

clubs, organise holiday classes, games, expeditions and other activities

- If a pupil is granted an exemption to assist at home due to illness or infirmity of a family member the authority may make special arrangements for them to receive education outwith an educational establishment
 - Provide school education or further education and any other service under this act or the ASL Act 2004 for a pupil belonging to another area. The authorities may enter into an arrangement for those purposes
 - Make payments to certain listed persons/authorities for the purpose of promoting education or improving the facilities for education
 - Provide and maintain museums within its area
 - Provide grants to assist persons over school age attending courses of full or part-time education (conditions apply)
 - Provide grants to persons of school age (certain conditions apply)
 - Make special arrangements to educate a pupil if exceptional circumstances exist
 - Recover payments made where a pupil has been provided with board and lodging at a school, hostel or elsewhere
- **The Education Authority shall provide facilities for consumption of food or drink brought to the school and the Education Authority may provide food and drink at the school**
 - Any food or drink provided for pupils must comply with the nutritional requirements specified by Scottish Ministers
 - The authority must take reasonable steps to protect the identity of pupils who receive school lunches free of charge
 - The authority may require a parent to submit a pupil or require any young person to submit for certain defined medical or dental examinations.
 - **Education Authorities have a duty to make available each year to pupils for whose education they are responsible no fewer than the number of learning hours prescribed by Scottish Ministers.**
 - Education authorities are responsible for the school education of pupils who belong to their authority area (a concept which is determined by the residence of their parents), and who either attend a school managed by that authority, or are educated by virtue of arrangements made by that authority.
 - Education Authorities may make available fewer than the prescribed hours to a pupil in certain circumstances. The circumstances are where the authority is satisfied that making available the prescribed hours to the pupil would adversely affect that pupil's wellbeing; where matters outwith the control of the authority make it impracticable to make available the prescribed number of hours during the relevant year; and in other circumstances prescribed by Scottish Ministers in regulations. Where an Education Authority makes available fewer than the prescribed hours, no fewer than the reduced hours must be made available.

Education Authorities must assess any potential adverse impact of the prescribed number of hours on a child's wellbeing with reference to the factors listed; i.e. the extent to which the pupil is or would be safe, healthy, achieving, nurtured, active, respected, responsible and included.

Before the beginning of the planning period each year each education authority must prepare and publish an annual plan setting out:

- the steps that the authority proposes to take with a view to reducing inequalities of outcome for pupils who experience inequalities as a result of socio-economic disadvantage, and
- the education benefits that the education authority considers will result from taking those steps.

As soon as reasonably practicable after the end of the period to which a plan published above relates, each education authority must prepare and publish a report setting out:

- the steps the authority has taken with a view to reducing the inequalities of outcome for pupils who experience inequalities as a result of socio-economic disadvantage
- the steps the authority has taken to comply with the duties imposed upon it (the authority must seek to have regard to the views of the head teachers as the authority thinks appropriate, such pupils as the authority thinks appropriate, the parents of such pupils as the authority thinks appropriate, the representatives of any trade union representing teaching staff as the authority thinks appropriate and any other person as the authority thinks appropriate. The authority must also provide advice and support to these people).
- any steps the authority has taken in pursuance of the National Improvement Framework (NIF), and
- any educational benefits for pupils that the authority considers result from those steps.

As soon as reasonably practicable after publishing a report, an education authority must give a copy of it to the Scottish Ministers.

Each education authority must prepare and publish each year an annual statement setting out, for the relevant period, the ways in which the authority will, in providing school education, encourage equal opportunities and in particular, the observance of equal opportunity requirements. As soon as reasonably practicable after the end of such relevant period, each education authority must prepare and publish a report setting out any activities carried out by it in pursuance of its annual statement.

Relevant Council Service / ALEO	Education
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EDUCATION SERVICES

7

Function	Education Standards
Act	Standards in Scotland's School etc. Act 2000
Content	
<ul style="list-style-type: none"> ▪ Every child of school age has the right to be educated (see previous section) ▪ Where school education is provided to a child or young person by the Council it is the Council's duty to secure that education is directed to the development of the personality, talents, mental and physical abilities to the pupil's fullest potential. ▪ The Council shall have regard to the views of the child taking into account its age and maturity. ▪ The Council shall endeavour to secure improvements in the quality of school education and ensure that there is a development plan for the school for the purpose of improving the quality of education. ▪ The Council shall from time to time review the quality of education within all schools it provides and if any school is not performing satisfactorily the Council shall take steps to remedy the matter. <p>Where the Education Authority is making a decision of a strategic nature about the carrying out of its functions relating to school education or the Education Authority is considering what steps to take to implement such a decision the Authority must:</p> <ul style="list-style-type: none"> ▪ seek and have regard to the views of certain persons in relation to the decision and steps; ▪ provide any advice and support that the authority thinks appropriate to those persons in relation to its consideration of the decision and steps . ▪ <p>In defining measures and standards of performance of a school an education authority must take into account the National Improvement Framework (NIF), and the annual plan which sets out the way the authority will reduce inequality.</p> <p>The four strategic priorities of the NIF are:</p> <ul style="list-style-type: none"> • improvement in attainment, particularly literacy and numeracy • closing the attainment gap between the most and least disadvantaged children and young people • improvement in children and young people's health and wellbeing, and • Improvement in employability skills and sustained, positive school leaver destinations for all 	

young people.

Education authorities have to demonstrate how they have sought and continue to seek, to deliver against the strategic priorities of the NIF.

Each education authority must prepare and publish each year an annual statement setting out the ways in which the authority proposes to endeavour to ensure schools managed by them and hostels provided and maintained by them for pupils, are health promoting for the relevant period. As soon as reasonably practicable after the end of each relevant period, each education authority must prepare and publish a report setting out the ways in which the authority has carried out the duty to promote health.

Relevant Council Service / ALEO

Education

7

Function		Accessibility Strategies
Act		Education (Disability Strategies and Pupils Educational Records) (Scotland) Act 2002
Content		
<ul style="list-style-type: none"> ▪ The Council shall prepare in relation to any School for which it is responsible an accessibility strategy for pupils with disabilities. ▪ In preparing the accessibility strategy the council shall have regard to need to allocate adequate resources for implementing the strategy, consult with such children, parents and young persons as it thinks fit and have regard to any guidance issue by the Scottish Ministers. ▪ The duties of the Council in relation to the supply of pupils' educational records are governed by the procedures contained within the Pupils Educational Records (Scotland) Regulations 2003. 		
Relevant Council Service / ALEO		Education

7

Function	Pupils With Additional Support Needs
Act	Education (Additional Support for Learning) (Scotland) Act 2004 Additional Support for Learning (Placing Requests and Deemed Decisions) (Scotland) Regulations 2005/515 (Scottish SI)
Content	<ul style="list-style-type: none"> ▪ The Council has a duty to: <ul style="list-style-type: none"> ○ Make adequate and efficient provision for the additional support required for each pupil with additional support needs; ○ Make arrangements to identify and address any additional support needs; ○ Publish, review and update as necessary information about the Council's policy and arrangements in relation to provision for identifying and addressing additional support needs of pupils; ○ Provide children and young persons who need one with a co-ordinated support plan and keep the plan under regular review; ○ In establishing if a child/young person has additional support needs or requires a coordinated support plan the Council must take account of relevant advice and information from such appropriate agencies and other persons as the Council thinks appropriate. ○ At least 12 months prior to the expected school leaving date of a pupil with additional support needs the Council must request and take account of information from appropriate agencies likely to make provisions for the pupil when they leave school. ○ To make arrangements for the provision of independent mediation services to seek to resolve disagreements concerning the exercise of the Council's functions under the Act. ▪ The Council has a duty to place a child with additional support needs in a school of the parents'/young person's choice unless various statutory criteria apply and a refusal of the request is appropriate. <ul style="list-style-type: none"> ○ If the education authority receive a placing request on or before 15th March in any year with respect to a child, or, as the case may be, young person, requesting a place in the school specified in the placing request for commencement at the school for the first term of the next school year, the Authority must respond by 30th April of that year. ○ In the case of any other placing request, the Authority must respond within the period of 2 months immediately following receipt by the authority of the placing request. ○ If the Authority does not respond within the statutory timescales, the placing request is deemed to have been refused. <ul style="list-style-type: none"> ○ Following a successful out of area placing request, parents or a young person are able to access mediation and/or dispute resolution from the host authority regarding that Education Authority's

functions under the 2004 Act.

- Following a successful out of area placing request for a child or young person with a co-ordinated support plan, the new host Education Authority are under a duty to seek and take account of information and advice from the Education Authority from which the co-ordinated support plan was transferred as well as any agencies or persons involved in providing support under the co-ordinated support plan prior to its transfer.
- Where a child is being educated outwith the area in which he or she lives as a result of a successful out of area placing request, it prevents the Education Authority (the host authority) from recovering the cost of providing any mediation and/or dispute resolution services from the authority for the area in which the child lives (the home authority).
- Where a child is being educated outwith his or her home Education Authority as a result of a successful out of area placing request, responsibility for the child's or young person's education and carrying out all of the duties under the 2004 Act transfers to the host authority.
- where a child is being educated outwith his or her home Education Authority as a result of arrangements made or entered into by the authority for the area to which the child or young person belongs with another authority, responsibility for the school education of the child or young person remains with the authority for the area to which the child belongs.

Relevant Council Service / ALEO

Education

7

Function		Parent Councils
Act		Scottish Schools (Parental Involvement) Act 2006
Content		
<ul style="list-style-type: none"> ▪ The Council is required to give advice and information reasonably requested by a Parent Council for a school in its area. ▪ The Council must take appropriate steps to ensure that head teachers and staff at the schools are available to give advice and information to a Parent Council. ▪ The Council is to determine an allocation of money within its budget as it appears to it to be reasonably required by a Parent Council to meet its administration expenses, training expenses etc. ▪ The Council may provide a Parent Council with services or accommodation. ▪ If the Council receives representations from a Parent Council it shall have regard to those representations. <p>Each education authority must publish:</p> <ul style="list-style-type: none"> • Its annual strategy for parental involvement An annual report on the activities undertaken by the authority during the relevant period in pursuance of the general policies set out in the strategy for parental involvement. 		
Relevant Council Service / ALEO		Education

7

Function	Consultation on School Proposals
Act	Schools (Consultation) Act 2010
Content	<ul style="list-style-type: none"> ▪ In relation to certain relevant proposals regarding schools and further education establishments within the Council's area, the Council must: <ul style="list-style-type: none"> ○ Prepare an educational benefits statement; ○ Prepare and publish a proposal paper; ○ Give notice to the relevant consultees; ○ Hold public meetings; ○ Involve Her Majesty's Inspectors; ○ Review the proposal and publish a consultation report. ▪ The relevant proposals that require consultation include proposals to: <ul style="list-style-type: none"> ○ Permanently discontinue a school; ○ Discontinue all nursery classes in a school or a stage or education in a school; ○ Permanently discontinue Gaelic medium education in a stage of education at a school that also provides that stage of education through English medium education and vice versa; ○ Establish a new school; ○ Relocate in whole or in part a school or nursery class; ○ Vary any admission arrangements for a school; ○ Vary the arrangements for the transfer of pupils from a primary school to a secondary school; ○ Change the school commencement date of a primary school. ○ Vary the arrangements for a special class in a school other than a special school; ○ Discontinue provision of transport to a denominational school; ○ Change a denominational school to a non- denominational school. ○ Discontinue a further education centre which is managed by the education authority. ▪ School Closure Proposals: <ul style="list-style-type: none"> ○ Following a decision not to implement a closure proposal, an Education Authority would not be able to publish a proposal paper under section 4(4) of the Schools (Consultation) (Scotland) Act 2010 for the same school within 5 years (beginning with the day on which the decision not to implement a closure proposal is made) unless there had been a significant change in the school's circumstances. ○ Education Authorities, as part of the proposal paper prepared under section 4(4) of the 2010 Act, to provide information about the financial implications of a proposal, where the proposal

paper relates to a school closure. This will ensure that school closure consultations prepared by Education Authorities contain financial information. Further detail on the type and level of financial information required to be provided by education authorities in their proposal paper can be set out in statutory guidance issued under section 19 of the 2010 Act.

- An Education Authority must inform a person who notifies it of an alleged omission of relevant information or an alleged inaccuracy in a proposal paper, of its determination under paragraph (a) of section 5(2) (whether the Education Authority considers that relevant information has been omitted or there has in fact been an inaccuracy) and the reasons for that determination. The Education Authority must inform the notifier as to the action (if any), it is taking and of the reasons why it is, or is not, taking such action. An Education Authority must also invite the notifier to make representations to the authority if the notifier disagrees with the authority's determination or its decision as to whether to take action.
- Where the notifier makes any such representations, the Education Authority may make a fresh determination or a fresh decision as to whether to take action, and to require the authority to inform the notifier if it takes either of those steps.
- Where an Education Authority determines that there has in its opinion been an omission or that there has in fact been an inaccuracy, where that omission or inaccuracy relates to a material consideration relevant to the education authority's decision as to implementation of the proposal, it must take the following steps: publish a corrected proposal paper, give revised notice and send a copy of the corrected paper to HMIE. The Education Authority must also issue a notice to the relevant consultees and HMIE providing the omitted information or, as the case may be, correcting the inaccuracy, and if the Education Authority considers it appropriate, extending the consultation period by such period as is reasonable by reference to the significance of the information provided or, as the case may be, the nature of the correction. Where the omission or inaccuracy does not relate to a material consideration, the Education Authority may take the before mentioned action or take no further action.
- Where the Education Authority issues a notice after the end of the consultation period, the notice may specify such further period during which representations may be made on the proposal as is reasonable by reference to the significance of the information provided or, as the case may be, the nature of the correction, and any such further period is to be treated as part of the consultation period.
- The 2014 Act also imposes additional requirements on education authorities in terms of the process to be followed for rural school closure proposals.
- Section 81 amends the provisions in the 2010 Act regarding call-in and determination of school closure proposals. Where a school closure proposal has been called-in by the Scottish Ministers it must be referred to the Convener of the School Closure Review Panels.
- An Education Authority cannot implement a closure proposal which has been referred to the Convener unless the School Closure Review Panel reviewing the proposal grants consent to it and either the period during which that decision may be appealed to the sheriff has expired or an appeal has been abandoned or the sheriff has confirmed the Panel's decision to consent to the proposal.

Relevant Council Service / ALEO

Education

7

Function	Preservation of the Gaelic language
Act	Gaelic Language (Scotland) Act 2005 , Education (Scotland) Act 2016 ; Gaelic Medium Education (Assessment Requests)(Scotland) Regulations 2016/425
Content	<p>Glasgow City Council has the duty to:</p> <ul style="list-style-type: none"> ▪ Produce a Gaelic Language Plan, which details steps to be taken to allow Gaelic speakers to use public services or engage with public bodies through the Gaelic language. ▪ Maintain and implement the Gaelic Language Plan. ▪ In preparing the Gaelic language plan, the Council must have regard to– <ul style="list-style-type: none"> ○ the most recent national Gaelic language plan; ○ the extent to which the persons in relation to whom the Council's functions are exercisable use the Gaelic language, ○ the potential for developing the use of the Gaelic language in connection with the exercise of those functions, ○ any representations made to the authority in relation to the use of the Gaelic language in connection with the exercise of those functions, and ○ any guidance given by the Scottish Ministers or the Bòrd na Gàidhlig. <p>Where an education authority receives an assessment request, from a parent of a child who is under school age and has not commenced attendance at primary school, to assess the need for Gaelic medium primary education (GMPE) the authority must designate an area within its area in respect of which the need for GMPE is to be assessed. In considering what area to designate as a GMPE assessment area, an authority must:</p> <ul style="list-style-type: none"> • so far as reasonable, seek to accommodate: <ul style="list-style-type: none"> ○ demand for GMPE evidenced in the request or contained in evidence accompanying the request ○ any other demand for GMPE of which the authority is aware in respect of children resident in the area of the authority who are under school age and have not commenced attendance at primary school • take into account factors which affect , or might affect, how any demand for GMPE could reasonably be met in the GMPE assessment area. • Make an assessment of the need for GMPE in relation to the GMPE assessment area and in the specified child's year group <p>In making an initial assessment, the authority must take into account any information it has which:</p> <ul style="list-style-type: none"> • Relates to the demand for GMPE in the GMPE assessment area from parents of children who are resident in the GMPE assessment area and who are in the same year group as the specified child and

indicates there is a demand for GMPE in the GMPE assessment area from parents of children who are resident in the GMPE assessment area and who are in a different year group than the specified child

Where the education authority makes a determination in relation to the GMPE assessment area, the authority must:

- Carry out a full assessment of the need for GMPE in the area, or
- Take such steps as are necessary to secure the provision of such GMPE in the area as it considers appropriate.

An education authority must send, within 6 weeks of receiving the assessment request send its determination to the person making the request., parents of other children resident in the area of the authority and in the same year group as the specified child who have been included in the assessment request.

If the education authority carries out a full assessment of the need for GMPE in a GMPE assessment area the authority must:

- Notify Her Majesty's inspectors of schools; Bord na Gaidhlig; the body known as Comann nam Parant; the body known as the National Parent Forum of Scotland
- Provide those bodies with information about the request
- Provide those bodies with the information the authority took into account in making the initial assessment
- Seek the views of those bodies on the above information and the authority's determination.

Relevant Council Service / ALEO

Education/Glasgow Life

EDUCATION SERVICES

7

Function	Children's Services
Act	Children and Young People (Scotland) Act 2014
Content	<p>A local authority and the relevant health board must in respect of each 3 year period prepare a children's services plan for the area of the local authority.</p> <p>Mandatory early learning</p> <p>The Education Authority must secure that the mandatory amount of early learning and childcare is made available for each eligible pre-school child belonging to its area. A pupil receiving school education is deemed to belong to the area where the pupil's parent is ordinarily residing. This is subject to any regulations made by the Scottish Ministers. The mandatory amount of early learning and childcare is 600 hours in each year for which a child is an eligible pre-school child and a pro rata amount for each part of a year for which a child is an eligible pre-school child .</p> <p>Alternative Arrangements</p> <p>An Education Authority can make alternative provision of education and care in order to meet the wellbeing needs of children (over 2 years old or looked after children) where the Authority, after assessing the child's needs considers that making alternative arrangements in relation to the child's education and care would better safeguard or promote the child's wellbeing.</p> <p>The Education Authority must make alternative arrangements in relation to the child's education and care as it considers appropriate for the purposes of safeguarding or promoting the child's wellbeing. Alternative arrangements cannot continue to be made if a parent of the child objects to those alternative arrangements being made.</p> <p>The Education Authority may, at any time, review any alternative arrangements it makes in relation to a child and must do so on becoming aware of any significant change in the child's circumstances. It may, following such a review, alter those arrangements.</p> <p>The Education Authority must seek to ensure that a record of the outcome of any assessment of a child's</p>

needs that it undertakes and any alternative arrangements that it makes in relation to the child's education and care is included in any child's plan which is prepared under Part 5 of this Act.

Consultation

An Education Authority must consult such persons as appear to it to be representative of parents of children under school age in its area about how it should make early learning and childcare available. The Education Authority must also have regard to the views expressed in that consultation and having done so prepare and publish a plan for how it intends to make early learning and childcare available. Such consultation must be carried out every 2 years although this can be varied by the Scottish Ministers.

An Education Authority must ensure that it makes early learning and childcare available by way of sessions which are provided during at least 38 weeks of every calendar year, and which are at least 2.5 hours but no more than 8 hours in duration. This is the minimum framework for delivering early learning and childcare. The Scottish Ministers may by order modify subsection (1) so as to vary the minimum framework for delivering early learning and childcare.

In exercising functions under sections 50 (duty to consult and plan on delivery of early learning and childcare) and 51 (method of delivery of early learning and childcare), an Education Authority must have regard to the desirability of ensuring that the method by which it makes early learning and childcare available is flexible enough to allow parents an appropriate degree of choice when deciding how to access the services.

Education Authorities must consult parents of pre-school children in their area at least once every two years about whether and if so how they should provide such education in exercise of their power under section 1(1C) of the 1980 Act and, having had regard to those views, prepare and publish plans in relation to that .

The Education must at least once every 2 years to consult such persons who are representative of parents of pre-school and school aged children in need about how they should provide day care and out of school care for such children; and, having had regard to the views expressed, prepare and publish plans in relation to their duty to provide day care to pre-school children in need and out of school care to school aged children in need.

Education Authorities must at least once every 2 years consult such persons who are representative of parents of pre-school children and school aged children about whether and if so how they should provide day care and out of school care; and, having had regard to the views expressed, prepare and publish plans in relation to their powers to provide day care to pre-school children who are not in need and out of school care to school aged children who are not in need.

The Education Authority must provide certain pupils (prescribed by regulations) with school lunches free of charge. Education Authorities can also provide school lunches free of charge to pupils who satisfy such conditions as the authority thinks fit.

Relevant Council Department

Education

EDUCATION (DELIVERED VIA CORDIA (SERVICES) LLP)

8

Function	Health Promotion and Nutrition
Act	Schools (Health Promotion and Nutrition) (Scotland) Act 2007
Content	
<p>The Act places health promotion at the heart of a school's activities and details a number of duties on local authorities and providers to promote school meals and consider sustainable development guidance when providing food and drink.</p> <p>In summary, the Act:</p> <ul style="list-style-type: none"> • imposes duties on education authorities to endeavour to ensure that public schools are health-promoting; • places duties on education authorities to ensure that all food and drink provided in schools complies with nutritional requirements specified by Scottish Ministers in regulations; • gives education authorities the power to provide pupils with snacks, either free of charge or subject to a charge; • places a duty on education authorities to promote school lunches and, in particular, free school lunches; • places a duty on education authorities to take steps to protect the identity of those receiving free school lunches; and • places a duty on education authorities to have regard to any guidance issued on the application of the principles of sustainable development when providing food or drink or catering services in schools. 	
Relevant Council Service / ALEO	Cordia

EDUCATION (DELIVERED VIA CORDIA (SERVICES) LLP)

8

Function	Food and Drink Nutritional Requirements
Act	Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2008
Content	
<p>Introduced in Primary schools in August 2008 and in Secondary schools in August 2009. The Regulations set strict nutritional standards for all food and drink being served in schools.</p> <p>The Regulations form part of the wider health promoting schools approach set out in the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 and work, as a whole, across the school day. They cover food and drinks that are sold or served in local authority schools in Scotland and are as follows:</p> <ol style="list-style-type: none"> 1. Two sets of standards for school lunches: <ul style="list-style-type: none"> • Nutrient standards, which set out the proportion of nutrients that pupils should receive from an average day's school lunch • Food standards and drink standards, which define the types of food and drinks that pupils should be offered in a school lunch and their frequency as well as setting nutritional requirements for specific types of food and drink which may be provided 2. Food standards and drink standards for school food and drinks served outwith the school lunch, e.g. breakfast clubs, tuck-shops, vending machines, mid-morning services, community cafes and after school clubs 	
Relevant Council Service / ALEO	Cordia

9

Glasgow Life is the operating name of Culture and Sport Glasgow ("CSG") and Culture and Sport Glasgow (Trading) CIC (Community Interest Company) ("CSG CIC").

Glasgow Life is registered as a charity with the Office of the Scottish Charity Regulator. CSG CIC is the trading arm of Glasgow Life and as such is responsible for commercial development activities such as retail and venue hire. All profits from this trading arm are gift aided to CSG.

Glasgow Life is an arm's length external organisation of Glasgow City Council responsible for delivering cultural, sporting and learning services and manages venues and the City's collections. It is responsible for city marketing, events and conventions as well as strategic leadership of Glasgow's Tourism and Visitor Plan.

9

Function	Provision of facilities for recreational use by inhabitants
Act	Local Government & Planning (Scotland) Act 1982
Content	
<p>The Council has the duty to:</p> <ul style="list-style-type: none"> ▪ Ensure that there is adequate provision of facilities for the inhabitants of its area for recreational, sporting, cultural and social activities. <p>The Council has the power to:</p> <ul style="list-style-type: none"> ▪ Arrange for the provision of or do anything necessary or expedient for the purpose of ensuring that there are available, whether inside or outside its area, such facilities for recreational, sporting, cultural or social activities as it considers appropriate. 	
Relevant Council Service / ALEO	Glasgow Life

9

Function	Regulation and control of libraries
Act	Public Libraries Consolidation (Scotland) Act 1887 ; Local Government (Scotland) Act 1973
Content	
<p>The Council may acquire land or any suitable building and may erect any suitable building for public libraries, public museums and / or art galleries. The Council has a duty to manage, regulate and control all libraries or museums or art galleries established under the Act or to which the Act applies (e.g. such facilities that were already in existence prior to the passing of the 1887 Act).</p> <p>The Council may make bye-laws regulating any matter connected with its control or management of its libraries, museums or art galleries.</p> <p>Under the 1887 Act, the Council has the duty to:</p> <ul style="list-style-type: none"> ▪ Manage, regulate and control all of its libraries, museums and galleries. ▪ Ensure that all libraries, museums or art galleries established under the Act, or to which the Act applies, shall be open to the public free of charge, and no charge shall be made for the use of books or magazines issued for home reading. <p>In addition, Section 163(2) of the Local Government (Scotland) Act 1973 places a duty on local authorities to secure the provision of adequate library facilities for all persons in their area.</p>	
Relevant Council Service / ALEO	Glasgow Life

9

Function	Working with Creative Scotland
Act	Public Service Reform (Scotland) Act 2010
Content	
<p>The Council has the power to:</p> <ul style="list-style-type: none"> ▪ Work in partnership with Creative Scotland to support the creative sector in its local area to grow and deliver its potential. The Act provides for the creation of Creative Scotland. The general functions of Creative Scotland include: <ul style="list-style-type: none"> ○ identifying, supporting and developing quality and excellence in the arts and culture from those engaged in artistic and other creative endeavours ○ promoting understanding, appreciation and enjoyment of the arts and culture ○ encouraging as many people as possible to access and participate in the arts and culture ○ realising as far as reasonably practicable to do so, the value and benefits (in particular the national and international value and benefits) of the arts and culture ○ encouraging and supporting artistic and other creative endeavours which contribute to an understanding of Scotland's national culture in its broad sense as a way of life ○ promoting and supporting industries and other commercial activity the primary focus of which is the application of creative skills 	
Relevant Council Service / ALEO	Glasgow Life

10

Financial Services provides a diverse range of services to the citizens of Glasgow, elected members and council departments. It is also home to the Strathclyde Pension Fund, one of the UK's largest, with around £15billion worth of pension fund assets under its management.

Financial Services provides financial stewardship of the council's resources to ensure that the council's budget strategies can be delivered and that resources are directed to areas of highest priority. The Executive Director of Financial Services has a statutory responsibility for managing the totality of the authority's financial affairs and has a fiduciary responsibility to local citizens.

Financial Services also provide a diverse range of services through the following teams:

- > City Assessor and Electoral Registration Officer
- > Corporate Finance
- > Revenues and Benefits (Council Tax, Non Domestic Rates and Benefits Administration)
- > Internal Audit
- > Strathclyde Pension Fund Office
- > Insurance and Claims

10

Function	Local Government Finance
Act	Local Government (Scotland) Act 1973 ; Local Government (Scotland) Act 1975 and Local Government in Scotland Act 2003 (and related Regulations)
Content	
<p><u>Local Authority Expenditure and Borrowing / Lending Powers</u></p> <p>Section 69(1) of the 1973 Act permits the Council to do anything (including involving the expenditure, borrowing or lending of money) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.</p> <p>Under Schedule 3 to the Local Government (Scotland) Act 1975 the Council may borrow such sums as may be required:</p> <ul style="list-style-type: none"> • For acquiring any land • Erecting any building • Executing any permanent work or providing any plant or doing any other thing it has power to do, or • Any other purpose for which the Council is authorised to borrow. <p>The Council must determine and keep under review the maximum amount which it can afford to allocate to capital expenditure, subject to compliance with certain Regulations (e.g. the Local Government Capital Expenditure Limits (Scotland) Regulations 2004 which established the Prudential Code for Capital Finance in Local Authorities) or any direction made by the Scottish Ministers.</p> <p>All income and expenditure must be accounted for through the General Fund Account. All capital income and expenditure must be accounted for separately in a Capital Fund.</p> <p>The Council may raise money from a range of sources, for example, the Public Works Loan Board, banks and other financial institutions, by issue of stock or bonds (subject to Regulations) and Bills, by mortgage (subject to Regulations) or by other means approved with Treasury consent. The Council may also raise money from capital receipts from the sale / lease of Council owned land and property.</p> <p>The Council may lend on such terms as may be agreed to another local authority, a Community Council in its area, or a harbour authority in its area.</p> <p><u>In respect of any financial year, a local authority has a duty to set an amount of Council Tax to be paid</u></p>	

in respect of a chargeable dwelling in its area listed in valuation band D and determine the amount of Council Tax to be paid in respect of a chargeable dwelling in each of the other valuation bands.

The setting of Council Tax must be taken by the full Council and cannot be delegated (Local Government (Scotland) Act 1973, section 56(6)).

A local authority has a duty to levy and collect the Council Tax set by it in respect of its area.

The Act also makes provision for entitlement to Council Tax benefit and requires the relevant authority to make copies of the Council Tax benefit scheme available for public inspection free of charge.

Relevant Council Service / ALEO

Financial Services

10

Function	Preparation of annual accounts
Act	Local Government (Scotland) Act 1973 and Local Authority Accounts (Scotland) Regulations 2014
Content	<ul style="list-style-type: none"> • Section 95 of the 1973 Act requires every local authority to make arrangements for the proper administration of its financial affairs and to secure that the proper officer of the authority has responsibility for the administration of those affairs (usually the Chief Executive or Director of Finance). Under the 2014 Regulations:- • The local authority must ensure that its financial management is adequate and effective and that it has a sound system of internal control which: <ul style="list-style-type: none"> ○ Facilitates the effective exercise of the local authority's functions; and ○ Includes arrangements for the management of risk. • The local authority must conduct a review of the effectiveness of its internal control system at least once in each financial year (including consideration of the review findings by the authority or a relevant committee of the authority). • Following consideration of the review, the authority or relevant committee must approve an annual governance statement, which must be signed by its Chief Executive and the Leader of the Council • The local authority must also keep adequate accounting records, and operate a professional and objective internal audit service which must be included in the review of its internal control system. • The local authority must ensure that its annual accounts are prepared in accordance with proper accounting practices. The unaudited version of the accounts must be published on the authority's website from the date they are submitted to the auditor. • The public must be given a right to inspect and object to its accounts. • No later than 30 September immediately following the end of the relevant financial year, the local authority must consider for approval the audited accounts and publish the statement of accounts by no later than 31 October.
Relevant Council Service / ALEO	Financial Services

10

Function	Accounting requirements and audit
Act	Public Finance and Accountability (Scotland) Act 2000
Content	
<ul style="list-style-type: none"> • Sets out the rules for spending money, accounting requirements, accountability of officials and auditing arrangements. • Section 21 of the Act covers the audit of accounts that, as a result of any enactment or prerogative instrument, are subject to audit by the Auditor General for Scotland (AGS). Section 22 of the Act sets out the matters that the AGS - or qualified person appointed by the AGS - must include in his or her report on an account. 	
Relevant Council Service / ALEO	Financial Services

10

Function	Administration of Housing Benefit and Council Tax Reduction schemes
Act	Social Security Administration Act 1992 ; Social Security Contributions and Benefits Act 1992 ; The Council Tax Reduction (Scotland) Regulations 2012
Content	
<p>The Council has a duty to administer Housing Benefit to individuals with low incomes in order to assist them with housing costs.</p> <p>The local authority is also obliged to provide the Secretary of State certain information regarding its performance of functions relating to the distribution of housing benefit.</p> <p>The new system of Universal Credit is currently being rolled out across the UK and will include payment of housing costs. The Housing Benefit system will therefore in future no longer be administered by local authorities.</p> <p>The Local Authority has a duty to administer the council tax reduction scheme. This is a scheme to assist those on a low income or claiming benefits with help towards paying their council tax.</p>	
Relevant Council Service / ALEO	Financial Services

10

Function	Administration of Discretionary Housing Payments
Act	The Discretionary Financial Assistance Regulations 2001
Content	
<p>The Council has the power to give financial assistance to persons entitled to housing benefit and who appear to require further financial assistance in order to meet housing costs. This is subject to an overall cash limit for all DHP applications received each financial year.</p>	
Relevant Council Service / ALEO	Financial Services

10

Function	Strathclyde Pension Fund
Acts/ Regulations	<p>The Public Service Pensions Act 2013</p> <p>The Local Government Pension Scheme (Management and Investment of Funds (Scotland) (Regulations) 2010 (as amended)</p> <p>The Local Government Pension Scheme (Scotland) Regulations 2014 (as may be amended)</p> <p>The Local Government Pension Scheme (Governance) (Scotland) Regulations 2015 (as amended)</p>
Content	<ul style="list-style-type: none"> • The Public Service Pensions Act 2013 This Act confers powers on the Scottish Ministers to make the Local Government Pension Scheme (Scotland) Regulations 2014. • The Local Government Pension Scheme (Scotland) Regulations 2014 Glasgow City Council (GCC) is the administering authority for Strathclyde Pension Fund, in terms of the Local Government Pension Scheme (Scotland) Regulations 2014, as amended. <p>The Regulations govern membership, contributions and payment of benefits (including retirement benefits, award of additional pension, election for lump sum instead of pension, ill-health retirement, death grants, survivor benefits and adjustment of benefits). The Regulations also cover matters including actuarial valuations, preparation of various strategies, statements and reports (including funding strategy statement and pension administration strategy), employer payments and the process to resolve any disagreements. These Regulations also detail that the administering authority may enter into pension fund admission agreements with certain organisations</p> <ul style="list-style-type: none"> • The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 2010 The role of the Strathclyde Pension Fund Committee is set out in the Committee Terms of Reference. This includes managing the investments of the Fund in accordance with the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 2010. These Regulations set

out provisions concerning the management of the fund, appointment of managers and the formulation of an investment policy and statement of investment principles.

- The Local Government Pension Scheme (Governance) (Scotland) Regulations 2015
The Local Government Pension Scheme (Governance) (Scotland) Regulations 2015 sets out provisions relating to the formation of a Scheme Advisory Board and Pension Board in relation to the LGPS.

Relevant Council Service / ALEO

Financial Services

FINANCIAL SERVICES

10

Function	Setting, levying and collection of Non-Domestic Rates
Act	Local Government (Scotland) Act 1975 / Community Empowerment (Scotland) Act 2015
Content	
<ul style="list-style-type: none">• In respect of any financial year, a local authority has a duty to levy and collect Non-Domestic Rates in respect of all lands and heritages within the City of Glasgow that are not residential properties, based on the rateable value of the property, as calculated by the Glasgow City Assessor, and the national rate poundage as set by the Scottish Government.• The Council has a duty to provide various exemptions and reliefs, both in terms of this Act and other rating legislation, as well as to implement the Small Business Bonus Scheme.• Exemptions include Churches and other places of worship. Reliefs include empty properties, charity shops and sports clubs. <p>The Council has power to create and fund its own localised business rate relief schemes to reflect local needs and support communities.</p>	
Relevant Council Service / ALEO	Financial Services

10

Function	Setting, levying and collection of Council Tax
Acts	Local Government Finance Act 1992 Section 93
Content	
<ul style="list-style-type: none"> • In respect of any financial year, a local authority has a duty to set an amount of Council Tax to be paid in respect of a chargeable dwelling in its area listed in valuation band D and determine the amount of Council Tax to be paid in respect of a chargeable dwelling in each of the other valuation bands. The amount of Council Tax set must be sufficient to achieve a balanced budget. • The setting of Council Tax must be taken by the full Council and cannot be delegated. • A local authority has a duty to levy and collect the Council Tax set by it in respect of its area. 	
Relevant Council Service / ALEO	Financial Services

10

Function	Administration
Acts	Welfare Funds (Scotland) Act 2015
Content	
<ul style="list-style-type: none"> • The Act provides for the establishment of a welfare fund which is to be maintained and administered by the Council. The fund will be made up of grants paid by Scottish Ministers and money paid into the fund by the Council. • The Council can use the welfare fund to provide occasional financial or other assistance to individuals on the following basis: <ul style="list-style-type: none"> • for meeting immediate short terms needs arising out of an exceptional event or exceptional circumstances; • to enable qualifying individuals to establish or maintain a settled home. • The Council has an obligation to review its decisions on provision of assistance. Administration of the fund will be set out in future regulations and guidance (to reflect interim voluntary arrangements in place since April 2013). 	
Relevant Council Service / ALEO	Financial Services

11

Social Work Services' vision is to provide high quality services that protect children and adults from harm, promote independence and deliver positive outcomes for Glasgow's citizens. The department delivers specialist, targeted services to meet assessed need within an extensive legislative framework. It must also comply with formal guidance, statutory directions, standards and the findings of public enquiries and formal inspection reports. Our service activities can be summarised as follows:

- provide care and protection for looked after children and vulnerable adults;
- assist in the management of acceptable risk to all individuals within the community;
- maintain and develop services for children and young people at risk or in trouble;
- provide services for children and adults with learning or physical disabilities;
- ensure care, support and protection for older people and adults with dementia, mental health problems and addictions;
- tackle and prevent homelessness and sustain service users within their own communities;
- support carers and families;
- support the criminal justice system and provide alternatives to custody whilst promoting public safety and reducing levels of re-offending;
- plan and develop preventative rehabilitation services for individuals or communities at risk; and
- integrate service delivery to individuals, families and communities within the council's wider strategies for social inclusion and regeneration.

Social Work Services provide services through three social work areas of North East, North West and South and directly provided residential and day care.

11

Function	Promotion of social welfare
Act	The Social Work (Scotland) Act 1968
Content	
<p>The Council has a duty to appoint a chief social work officer.</p> <p>The Council may make arrangements with third parties to assist it in the performance of the functions assigned to the Council under the 1968 Act and others.</p> <p>The Council must have a complaints procedure to deal with representations (including complaints) about the Authority's performance or lack of performance of its obligations.</p> <p>The Council has a duty to promote social welfare by making available advice, guidance and assistance on such a scale as may be appropriate for its area; and in that regard to make arrangements and to provide or secure the provision of such facilities (including the provision or arranging for the provision of residential and other establishments) as the Council considers suitable and adequate.</p> <p>The Council has a duty to assess the needs of any person for whom it is under a duty or has the power to provide or secure community care services, where it appears to the Council that such a person may be in need of community care services.</p> <p>Where a local authority have assessed that an adult's needs call for the provision of a community care service; and it appears to the local authority that the adult is incapable in relation to decisions about the service, the local authority may take any steps which they consider would help the adult to benefit from the service. NB This power is subject to a variety qualifications.</p> <p>A person of any age who provides or intends to provide a substantial amount of care on a regular basis for another person aged 18 or over, can request the Council to make an assessment of the carer's ability to provide such care for that person; and the Council must comply with such a request where it appears to the Council that the person cared for is a person for whom they must or may provide, or secure the provision of, community care services. The Council must also notify such persons that they may have the right to request a carer's assessment.</p> <p>The Council has a duty to provide and maintain or make arrangements for the provision of suitable residential accommodation where nursing is provided for persons who appear to it to be in need of such accommodation.</p>	

Where a local authority makes arrangements or provide or secure the provision of facilities for the engagement of persons in need in suitable work that local authority may assist such persons in disposing of the produce of their work.

The Council has a duty to provide or arrange for the provision of domiciliary services for households where it is required due to the presence of a person in need; and has the power to provide or arrange laundry facilities for those households.

It is a function of the Council to provide a service for the following purposes in respect of the supervision and care of persons put on probation or leased from prison etc.:

- Making available to any court such social backgrounds reports and other reports as the court may require for the disposal of a case;
- Making available to any children's hearing such reports relating to person aged 16 and 17 in relation to the commission of an offence as the hearing may require for the disposal of a case;
- Making available to any procurator fiscal or the Lord Advocate such reports as they may request in relation to person who are charged with an offence;
- The provision of advice, guidance and assistance for persons who are in prison or subject to another form of detention who resided in its area immediately prior to such imprisonment; and who on release, it appears to the Council, will be required to be under supervision. (This duty becomes a power where it appears to the Council, that the person will not be required to be under any form of supervision on release.
- Making available for the purposes of parenting orders such services as are required to enable requirements imposed by such orders to be carried out;
- Making available to the Scottish Ministers such background and other reports as they may request in relation to the detention, transfer and release of offenders;
- The supervision of and the provision of advice, guidance and assistance for persons in its area who:
 - are under supervision by order of a court;
 - following release from prison are required to be under supervision;
 - are subject to a community payback order;

 - are subject to a supervision and treatment order;

 - under 16 and are subject to a restriction of liberty order;
 - are aged 16 and 17 years who are subject to a compulsory supervision order imposed in relation to the commission of any offence by that person;
 - are charged with, but not prosecuted for, any offence and are referred to the Council by the procurator fiscal or the Lord Advocate;
 - are subject to work orders
 - within 12 months of their release from prison or any other form of detention, request advice, guidance or assistance.

The Council may bury or cremate the body of any deceased person who immediately before their death was in the care of or receiving assistance from the authority.

The Council has the power to defray the travelling, subsistence or other expenses of a parent, relative or other

person connected with a child who is being looked after by the authority, or with another person in the care of the authority or receiving assistance from the authority; where those expenses are incurred in visiting that child or person, and it appears to the authority that the parent, relative or other person would not otherwise be able to visit that child or person without undue hardship and that the circumstances warrant the making of the payments.

The Council has a duty to provide and maintain such residential and other establishments as may be required for its functions under the Social Work (Scotland) Act 1968; sections 25 and 26 of the Mental Health (Care and Treatment) (Scotland) Act 2003; and Part 2 of the Children (Scotland) Act 1995 or the Children's Hearings (Scotland) Act 2011; or arrange for the provision of such establishments

In respect of non-residential services provided to persons aged 18 and above under the Social Work (Scotland) Act 1968; or section 7 or 8 of the Mental Health (Scotland) Act 1984 the Council may recover such charge (if any) for it as they consider reasonable, subject to being satisfied that the person has sufficient means to meet it, and shall not require the person to pay more for it than it appears practicable for the person to do.

(2) Persons, other than maintainable children, for whom accommodation is provided under the Social Work (Scotland) Act or section 7 of the said Act of Mental Health (Scotland) Act must pay for that accommodation in accordance with the person's means.

Relevant Council Service / ALEO	Social Work
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11

Function	Regulating property, financial affairs and personal welfare of adults who are incapable by reason of mental disorder or inability to communicate
Act	Adults with Incapacity (Scotland) Act 2000
Content	
<p>The Act gives the Council the following duties:</p> <ul style="list-style-type: none"> • To supervise a guardian appointed with functions relating to the personal welfare of an adult; • To consult the Public Guardian and the Mental Welfare Commission on cases or matters relating to the exercise of functions under this Act; • To receive and investigate any complaints made relating to the exercise of functions regarding the personal welfare of an adult; • To investigate any circumstances made known to it in which the personal welfare of an adult seems to it to be at risk; • To provide a guardian etc. with information and advice in connection with the performance of their functions if requested to do so; • The power and, in certain circumstances, the duty to apply for intervention orders and guardianship orders relating to the protection of the property, financial affairs and personal welfare of adults with incapacity. 	
Relevant Council Service / ALEO	Social Work

11

Function	Supporting Carer's Health and Wellbeing
Act	Carers (Scotland) Act 2016
Content	<ul style="list-style-type: none"> • The Carers (Scotland) Act 2016 will take effect from April 1, 2018. Regulations have already been made commencing different sections of the Act; clarifying the definition of carer with respect to kinship carers; and setting the timescales for publication and review of local eligibility criteria. At present, Sections 6-9, 11-15, 17-20, 23- 25, 27-36, 38-40 and Schedule 1 are not yet in force. • The definition of 'carer' in Part 1 of the Act has been revised to reflect the diverse range of circumstances in which people are undertaking caring responsibilities. The meaning of 'carer' includes an individual 'who intends to provide care' as well as an individual who presently provides care. Further, there will no longer be a requirement for the care provided to be 'substantial' and 'regular,' therefore expanding the definition of 'carer' to encompass a greater number of care providers. • Under Chapters 1 and 2 of Part 2 of the Act, Carers Assessments have been replaced with Adult Carer Support Plans (ACSP) and Young Carers Statements, for which the Council has a duty to prepare and make available to any person identified as an adult or young person carer. • The Council is required to establish a local eligibility criteria, detailing the circumstances in which support will be offered to carers in accordance with Section 21. Carers who meet the eligibility criteria must be provided with support to meet their identified needs and should be offered a choice under four options as to how such support will be rendered, either through direct financial payment, targeting of available support, provision of support personnel for the care-for-person or through an assortment of these available options. By allowing carers to self-direct their means of support, it is envisaged that such support will more adequately address their individual needs. The Carers (Scotland) Act 2016 (Prescribed Days) Regulations 2017, Regulation 2 provides that the commencement of the period for publication of local eligibility criteria is from 1 October 2017. • The Council is required to provide support to a carer to meet the carer's eligible needs, and may provide support to the carer to meet other identified needs in accordance with Section 24. The carer's eligible needs are the carer's identified needs which meet the local eligibility criteria. Part 3, Chapter 2 details further duties required to be provided by the Council to support carers, including providing breaks from caring for people identified as adult and young person carers. • The Council is obliged to involve carers in carer services and a duty to prepare local carer strategy, in accordance with Parts 4 and 5 of the Act. • The Council is required to establish and maintain an information and advice service for carers, providing guidance on matters including education and training, advocacy for carers, bereavement support services, emergency and future care planning, health and wellbeing, mental health counselling

and potential means of income maximisation, in accordance with Section 34.

- The Council is obliged to publish a 'Short Breaks Services Statement,' providing information about short break services available in Scotland for carers and cared for persons in accordance with Section 35 of the Act. The definition of 'short breaks' will be clarified in regulations and guidance as will further details on how these statements will be prepared, published and reviewed.

Relevant Council Service / ALEO

Social Work

11

Function	Duty of Candour
Act	Health (Tobacco, Nicotine etc. and Care)(Scotland) Act 2016
Content	
<ul style="list-style-type: none"> • The Council, when providing a health, care or social work service, must comply with the statutory duty of candour and inform people (and their families) when they or a relative have been harmed (either physically or psychologically) as a result of an unintended or unexpected incident which has occurred in the provision of a health service, a care service or a social work service. The Council is obliged to comply with this duty to inform people when such an incident has occurred. • Section 21 details the incidents which activate the duty of candour procedure, the 'responsible person' obliged to satisfy this duty includes Health Boards, Local Authorities or any other person (other than an individual) who provides a care service or a social work or health care service. • Section 22 notes that the duty of candour procedure will be detailed in the Regulations (to be drafted by the Scottish Ministers). • Section 23 provides the statutory definition of an apology, and notes that an apology or other steps taken in accordance with the duty of candour do not amount to an admission of negligence or a breach of a statutory duty. • The Council must comply with the statutory reporting and monitoring duties contained in Section 24, any part the Council providing a health, care or social service will be required to prepare an annual report on the duty of candour as soon as reasonably practicable after the end of that financial year. • Section 24 of the Act is not yet in force, and Sections 21 to 23 are partially in force. These sections are expected to be implemented in full on 1 April 2018. 	
Relevant Council Service / ALEO	Social Work

11

Function	Duty in relation to services for the chronically sick or disabled
Act	Chronically Sick and Disabled Persons Act 1970
Content	
<p>The Council has a qualified duty to any person who is chronically sick or disabled or suffering from mental disorder and is resident in its area to make arrangements for all or any of the following:</p> <ul style="list-style-type: none"> • Practical assistance for that person in their home; • Assistance to that person in obtaining recreational facilities within and outside their home; • Assistance to that person in taking advantage of educational facilities available to them; • Facilities for or assistance in travelling to and from their home for the purpose of participating in any services provided by the Council; • Assistance for that person in arranging for the carrying out of any works of adaptation in their home to secure their greater safety, comfort or convenience; • Facilitate the taking of holidays by that person; • Meals for that person in their home or elsewhere; and • Assistance to that person in obtaining a telephone and any special equipment necessary to enable them to use a telephone. <p>The qualifying conditions or circumstances in relation to these duties applying are that:</p> <ul style="list-style-type: none"> • the person must be owed a duty by the local authority under Section 12 of the Social Work Scotland Act 1968 Act - (duty to promote social welfare of persons in their area, not being less than eighteen years of age) or under Chapter 1 of Part II of the Children (Scotland) Act 1995 (Support for Children And their Families) • the local authority must be satisfied that it is necessary in order to meet the needs of such a person for that authority to make any or all of the arrangements mentioned in section 2 of the 1970 Act. <p>There is discretion on the part of the authority to the extent it must be satisfied that the relevant arrangements are necessary to meet the needs of the person.</p>	
Relevant Council Service / ALEO	Social Work

11

Function	Nursing, personal and other care services
Act	Community Care and Health (Scotland) Act 2002
Content	
<ul style="list-style-type: none"> • The Act sets out services that are not to be charged for by the Council. • The Act enables implementation of free nursing, personal care and personal support in certain circumstances; enables deferred payment agreements for residents of care homes; enables expansion of joint resourcing by the NHS and local authorities of prescribed functions; and provides for assessment of informal carers. • The Council must support and assess carers with a view to providing a gateway for further care and support. 	
Relevant Council Service / ALEO	Social Work

11

Function	Duty of the Council re committal and detention of children and young persons
Act	Criminal Procedure (Scotland) Act 1995
Content	
<ul style="list-style-type: none"> • The Council has a duty of care for persons under 16 years old (or under 18 if subject to a compulsory supervision order) when in respect of criminal proceedings a court does not release them on bail or ordain them to appear but remands or commits the person for trial or sentence to the care of the local authority. • The Council must detain the person in secure accommodation where specifically ordered to do so by the court or in a suitable place of safety chosen by the Council. • Where a person under 16 years old (or under 18 if subject to a compulsory supervision order) is found guilty of an offence in criminal summary proceedings and the sheriff orders that the person will be detained by the Council in residential accommodation, the Council has the same powers and duties towards that young person as it would if a compulsory supervision order was in place (see Children's Hearings (Scotland) Act 2011). 	
Relevant Council Service / ALEO	Social Work

11

Function	Sheltered employment for disabled persons
Act	Disabled Persons (Employment) Act 1958
Content	
<p>The Council has the power to make arrangements for persons who are seriously disabled to work under special conditions and to provide training for such work or employment (see also Corporate Services Section - Procurement function).</p>	
Relevant Council Service / ALEO	Social Work and City Building

11

Function	Regulation of private fostering arrangements
Act	Foster Children (Scotland) Act 1984
Content	
<ul style="list-style-type: none"> • A child can be fostered in two ways: either by private arrangement or by the Local Authority carrying out its duties to looked after children. This Act relates to the Local Authority obligations to oversee private fostering arrangements when it is notified to them. • There is a duty on the Council to secure the welfare of children within its area who are fostered by private arrangement. • The Council has the power to impose requirements relating to foster children (e.g. their accommodation, medical arrangements). • Any officer of the Council who is authorised to visit foster children may inspect any premises in the area in which foster children are to be or are being kept. • When a person proposes to keep a foster child in any premises and the Council is of the opinion that it would be detrimental to that child to be kept by them in those premises the Council may prohibit the person from doing so. • The Council may apply to a Sheriff for an order to remove a foster child if he or she is being or is about to be kept in unsuitable surroundings or by an unsuitable person. 	
Relevant Council Service / ALEO	Social Work

11

Function	Charges for provision of care and accommodation
Act	The National Assistance Act 1948
Content	
This Act imposes on the Council a duty to recover charges for care home accommodation provided under the Social Work (Scotland) Act 1968, subject to the ability of the person to pay.	
Relevant Council Service / ALEO	Social Work

11

Function	Recovery of money for accommodation by the Council
Act	Health and Social Services and Social Security Adjudication Act 1983
Content	
<p>This Act provides for methods of recovery of sums due to the Council for care home accommodation provided under the Social Work (Scotland) Act 1968:</p> <ul style="list-style-type: none"> • The first method allows the Council to place a charging order on the heritable property of the person who has entered the care home; • The second method allows the Council in limited circumstances to pursue the recipient of any assets that have been transferred to them by the resident of the care home. 	
Relevant Council Service / ALEO	Social Work

11

Function	Duties owed to homeless persons
Act	Housing (Scotland) Act 1987 ; Housing (Scotland) Act 2001
Content	<ul style="list-style-type: none"> • <u>Homelessness Strategy</u>: A Local Authority, when it is requested to do so by the Scottish Ministers, has a duty to carry out an assessment of homelessness in its area and to prepare and submit a homelessness strategy for preventing and alleviating homelessness in its area (Section 1, Housing (Scotland) Act 2001). • <u>Free Availability of Advice and Information</u>: A Local Authority must ensure that advice and information about homelessness, the prevention of homelessness and the availability of services to assist homeless persons or prevent homelessness is available free of charge to any person in the authority's area. (Section 2, Housing (Scotland) Act 2001). • <u>Inquiries</u>: When a person applies for homelessness assistance a Local Authority has a duty to make inquiries to determine if that person is homeless or threatened with homelessness. If a person is found to be homeless or threatened with homelessness, the local authority has a duty to make inquiries to satisfy themselves as to whether the person became homeless or threatened with homelessness intentionally. A local authority may also make inquiries with other local authorities to determine if an applicant for homelessness assistance has local connection to another authority (Section 28 of the Housing (Scotland) Act 1987) • <u>Interim Accommodation</u>: A Local Authority has a duty to provide interim accommodation where: <ul style="list-style-type: none"> • inquiries about homelessness and the causes of homelessness are being carried out: • an applicant is awaiting a decision on an application. • during any period where an applicant has requested a review of a decision. Until such times as a Local Authority has discharged any duty owed to a particular applicant. (Section 29 of the Housing (Scotland) Act 1987) • <u>Decision and Reasons</u>: Any decision taken by the local authority must be given to the applicant in writing and contain reasons for the decision. The Applicant must be notified of any right to a review. (Section 30, of the Housing (Scotland) Act 1987). • <u>Primary Duty to Unintentionally Homeless Persons- Permanent Accommodation provided by a</u>

Registered Social Landlord The primary duty owed to persons found to be homeless but not intentionally homeless is to secure that permanent accommodation becomes available for the applicant's occupation. Glasgow City Council has no houses of its own. Therefore offers are secured through referrals made to Registered Social Landlords by referrals under section 5 of the Housing (Scotland) Act 2001. (Section 31, Housing (Scotland) Act 1987)

- Primary Duty to Unintentionally Homeless Persons—Securing a Private Sector Short Assured Tenancy: In certain limited circumstances, if an Applicant agrees, a Local Authority can discharge its duty to secure permanent by arranging for a private sector Short Assured Tenancy of no less than 12 months' duration. (Section 31, Housing (Scotland) Act 1987).
- Secondary Duty to Unintentionally Homeless Person-Advice, Assistance and a Reasonable Period in Accommodation: If a person refuses a reasonable offer of accommodation the Local Authority cannot discharge its obligations to that person until it offers advice, assistance and a reasonable period in accommodation to allow that person a reasonable opportunity to secure accommodation. (Section 31, Housing (Scotland) Act 1987).
- Duty to Persons Intentionally Homeless: A person who deliberately does or fails to do anything which results in losing accommodation which was available for occupation and was reasonable to occupy is intentionally homeless (sections 26 and 31, Housing (Scotland) Act 1987). The Local Authority must provide such a person with advice, assistance and a reasonable period in accommodation to allow that person a reasonable opportunity to secure accommodation.
- Duties owed to Persons Threatened with Homelessness: In such cases the Local Authority has a duty to secure that accommodation does not cease to become available for occupation. This duty can be discharged by providing advice and assistance to prevent homelessness occurring. In limited circumstances it can be discharged by arranging alternative accommodation under a private sector Short Assured Tenancy. It is possible to be threatened with homelessness intentionally but a duty to provide advice and assistance would still apply. (Section 32, Housing (Scotland) Act 1987).
- Assessment of Housing Support Needs: Where a person has been found to be homeless or threatened with homelessness unintentionally a Local Authority has a duty to inquire into and make a decision about whether the Applicant or any other person residing with the Applicant has housing support needs. The Local Authority must ensure that any support services assessed as needs are provided (Section 32B, Housing (Scotland) Act 1987), inserted by the Housing (Scotland) Act 2010, Section 158.
- Referrals for Local Connection: Where an Applicant who is homeless but not intentionally homeless has no local connection to the Local Authority where the application is made that Local Authority may refer the Applicant to a Local Authority where the Applicant has a local connection. The Local Authority making the referral has a duty to provide interim accommodation until such times as the referral is accepted (Section 33 & 34 of the Housing (Scotland) Act 1987).
- Right to a Review: If an Applicant makes a request within 21 days of being notified of a decision the Local Authority must carry out a review. Reviews may be requested on the following subjects:
 - Whether an Applicant is homeless or threatened with homelessness.

- Whether an Applicant is intentionally homeless or threatened with homelessness intentionally.
 - Whether any Advice and Assistance provided is sufficient to consider the duty to provide advice and assistance discharged.
 - Whether a Local Authority should refer to another Local Authority for Local Connection.
 - Whether Accommodation secured is reasonable and ought to have accepted by the Applicant. (Section 35A, Housing (Scotland) Act 1987)
- Procedure on Review: The Local Authority must appoint an officer senior to the original decision maker to carry out the review. The review decision must be in writing and give reasons. (Section 35B, Housing (Scotland) Act 1987).
 - Protection of Moveable Property: Where there is risk that a person's moveable property may be lost due to homelessness the Local Authority has a duty to store that property. In general this means storing furniture (Section 36, Housing (Scotland) Act 1987). Moveable property may be disposed of if the person has not taken possession of it within 28 days of the Council having discharged all of its duties to them.
 - Scottish Government Guidance: A Local Authority must have regard to any Guidance published by the Scottish Government on the subject of Local Authority duties under homelessness legislation.
 - Duty to Co-operate with other Local Authorities and Statutory Bodies: Where requested to render assistance by other Local Authorities and other named statutory bodies a Local Authority receiving a request has a duty to co-operate in rendering assistance in the discharge of functions to which the request relates as is reasonable in the circumstances.

Relevant Council Service / ALEO

Social Work

11

Function	Establishment of an adoption service
Act	The Adoption and Children (Scotland) Act 2007
Content	
<p>It is the duty of the Council to establish and maintain a service designed to meet the needs of:</p> <ul style="list-style-type: none"> • Children or persons who have been or may be adopted; • Parents and guardians of children or persons who have been or may be adopted; • Persons who treated a child as their own prior to them being placed for adoption and natural parents of persons who have been adopted; • Siblings, grandparents and former guardians of persons who have been or may be adopted; • Persons who have adopted or may adopt a child; • Any children of persons who have adopted or may adopt; • Any other person who is affected by the adoption or proposed adoption <p>The service must include:</p> <ul style="list-style-type: none"> • Arrangements for assessing children and prospective adopters; • Placing children for adoption; • The provision of adoption support services and adoption allowances. (The Council must where requested make an assessment of the needs for adoption support services, and must decide where the needs identified call for the provision of services.) • The Council must prepare and publish a plan for the provision of an adoption service, which must be kept under review. <p>Where the Council is coming to a decision relating to the adoption of a child the Council must regard the need to safeguard and promote the welfare of the child throughout his/her lifetime as the paramount consideration, and must have regard to a number of factors including the views of the child, the parents, and the child's religious persuasion, racial origin and cultural and linguistic background.</p> <p>Before making any arrangements for the adoption of a child the Council must have regard to whether there is some better practical alternative for the child.</p> <ul style="list-style-type: none"> • The Council requires to submit a report to the Court having received notice that an adoption application has been made in relation to a child whom the Council has placed for adoption or in relation to any other child where the applicants live in the Council area. • Where the Council deem that the provision of adoption support services is called for it must put in place an 	

adoption support plan, and the plan must be regularly reviewed.

- The Act allows the Council to make applications for Permanence Orders, including Permanence Orders With Authority To Adopt, vesting in the local authority the parental right to dictate where a child resides, and allowing other parental rights/responsibilities to be vested in the Council/the child's carers/parents.

Relevant Council Service / ALEO

Social Work

11

Function	Protection of adults at risk of harm
Act	The Adult Support and Protection (Scotland) Act 2007
Content	<p>A council must make inquiries about a person's well-being, property or financial affairs if it knows or believes:</p> <ul style="list-style-type: none"> • that the person is an adult at risk, and • that it might need to intervene. <p>In order to protect the person's well-being, property or financial affairs a Council must, so far as consistent with the proper exercise of their functions, co-operate with another council that is making inquiries per the above duty and with the Care Inspectorate; Healthcare Improvement Scotland; the Public Guardian, all other Councils, the Chief Constable of the Police Service of Scotland, the relevant Health Board, and any other public body or office-holder as the Scottish Ministers may by order specify where such co-operation is likely to enable or assist the council making those inquiries.</p> <p>Where the Council or office holder knows or believes that a person is an adult at risk, and that action needs to be taken in order to protect that person from harm the Council or office holder must report the facts and circumstances of the case to the Council for the area in which it considers the person to be.</p> <p>Where, after making inquiries about a person's well-being, property or financial affairs, a Council considers that it needs to intervene in order to protect an adult at risk from harm, the council must have regard to the importance of the provision of appropriate services (including, in particular, independent advocacy services) to the adult concerned.</p> <p>The council must take reasonable steps to prevent any property owned or controlled by a person moved in pursuance of a removal order granted by the court, from being lost or damaged because:</p> <ul style="list-style-type: none"> • the moved person is unable to protect, care for or otherwise deal with it; and • no other suitable arrangements have been or are being made for the purposes of preventing such loss or damage. <p>The Council may and in certain circumstances must apply to the Sheriff Court for various court orders under the Act: these include an assessment order, a removal order, a banning order, and a temporary banning order in respect of the adult at risk. Legal advice and assistance is required to progress these.</p> <p>The Council must establish a committee (an "Adult Protection Committee") to keep under review the procedures and practices of the public bodies and officeholders that are responsible for the safeguarding of adults at risk in the council's area:</p> <ul style="list-style-type: none"> • to give information or advice, or make proposals, to any relevant public body and officeholder on the exercise of functions which relate to the safeguarding of such adults;

- to make, or assist in or encourage the making of, arrangements for improving the skills and knowledge of officers or employees of such public bodies and officeholders; and
- any other function relating to the safeguarding of adults at risk as the Scottish Ministers may by order specify (In fulfilment of its duty Glasgow City Council has set up its own Adult Protection Committee).

Relevant Council Service / ALEO

Social Work

11

Function	Safeguard and promote care of children
Act	The Children (Scotland) Act 1995
Content	<ul style="list-style-type: none"> • It is the duty of the Council to safeguard and promote the welfare of children in their area who are in need; and so far as is consistent with that duty, to promote the upbringing of such children by their families by providing a range and level of services appropriate to the children's needs. • In carrying out this duty towards children in need in its area the Council has a specific duty to minimise the effect of a disability on any disabled child or child affected by disability of a family member. When requested to do so the Council shall carry out an assessment of a child affected by disability to determine his/her needs and/or of the child's carer's ability to provide care for the child. • It is the duty of the Council to exercise its functions toward children or young people to whom it is providing services under the 1995 Act in a way which is designed to safeguard, support and promote the wellbeing of the children or young people. • It is the duty of the Council to safeguard and promote the welfare of a child being looked after by it as its paramount concern, and to take account of the views of the child and the parents in making decisions about a looked after child. • It is the duty of the Council , in respect of <u>looked after children</u>, to make such use of services available for children cared for by their own parents as appear to the Council to be reasonable. • It is the duty of the Council to take such steps to promote personal relations and direct contact between the looked after child and any person with parental rights and responsibilities in relation to him as appear to be practicable and appropriate. • It is the duty of the Council to have regard to the religious persuasion, racial origin and cultural and linguistic background of the child in making any decisions about a looked after child. • There is a duty to regularly review the case of any looked after child in accordance with Regulations made under the Children (Scotland) Act 1995, which also contain requirements for care planning. • The Council shall provide accommodation for any child (up to age 18) who is residing or who is found within its area where it appears to the Council that they are lost or abandoned, no-one has parental responsibility for them or the person who has been caring for them is prevented, permanently or temporarily , from providing them with suitable accommodation. • The Council may provide accommodation for any child or young person in its area up to age 21 if the Council considers that to do so would safeguard and promote their welfare. • The Council cannot provide such accommodation if the person with parental rights or responsibilities is willing and able to provide or arrange to provide accommodation for the child. • The Council must provide the same accommodation and other assistance ("continuing care") as was

being provided by the Council to a looked after young person that was provided immediately before that young person ceased to be looked after. (Note: At time of writing this applies to 16-19 year olds only, but the Scottish Government intend that this should be extended gradually to others up to the 22nd birthday). If the carer is unable or unwilling to continue as carer, or if the continuing care would significantly adversely affect the person's welfare, the duty does not apply. The duty ceases if the young person leaves the accommodation of his own volition or the accommodation ceases to be available.

- The Council shall (unless satisfied that his welfare does not require it) advise, guide and assist any young person in their area aged over 16 and under 19 years old who was looked after by the Council (when they turned 16 or subsequently). Any young person aged over 19 and under 26 years old previously looked after at age 16 or subsequently may apply for such assistance.
- The Council has a duty to assess the support/assistance needs of such a formerly looked after young person, and if satisfied that the person has any eligible needs which cannot be met other than by the Council taking action, must provide such assistance as is necessary to meet those needs.
- The Council may make grants to persons age 16 or over who are not yet 26 years of age to enable them to meet expenses connected with education or training if when they turned 16 they were being looked after by the local authority.
- The Council must provide such day care for pre-school children in need within their area as is appropriate and they may provide day care for other pre-school children.
- The Council has the power to apply for an exclusion order where a child has suffered or is likely to suffer significant harm as the result of any conduct of a person and removal of that person from the family home would better safeguard the welfare of the child than removing the child.
- The Council must prepare and publish information about relevant services which are provided by them for or in respect of children in their area.

Relevant Council Service / ALEO

Social Work

11

Function	Reports on the care and upbringing of children
Act	The Matrimonial Proceedings (Children) Act 1958
Content	
<p>When a court is considering any question relating to the care and upbringing of a child it may appoint the appropriate Council to investigate and report to the court on all the circumstances of the child and on the proposed arrangements for the care and upbringing of the child.</p> <p>The Court may require the person who furnished the report to appear and be examined on oath regarding any matter dealt with in the report.</p>	
Relevant Council Service / ALEO	Social Work

11

Function	Services for children
Act	The Children and Young People (Scotland) Act 2014
Content	<ul style="list-style-type: none"> Please note that the 2014 Act is only partially in force. What follows represent information in respect of statutory duties/powers which are currently in force relating to Social Work: <p>Children's Services Planning.</p> <ul style="list-style-type: none"> The Council must in respect of each three year period prepare a children's services plan covering children's services and related services, with the aim of providing services which best safeguard, support and promote the wellbeing of children in its area. There requires to be consultation with other service providers and the Scottish Ministers, and the plan must be kept under review. During the currency of the plan the Council must provide children's services and related services in accordance with the plan. The Council must report on its compliance with the plan every year. <p>Corporate Parent Responsibilities.</p> <ul style="list-style-type: none"> The Council has corporate parenting responsibilities towards every child who is looked after by the local authority and every young person who is over 16 and under 26 years old who was looked after on their 16th birthday which are: <ul style="list-style-type: none"> to be alert to matters which, or which might, adversely affect the wellbeing of those children and young people to assess the needs of those children and young people for services and support it provides and to promote their interests to seek to provide those children and young people with opportunities to participate in activities designed to promote their wellbeing and take action to allow them to access those opportunities, support and services <p>The Council as a corporate parent must prepare a plan, to be kept under review, for how it plans to exercise its corporate parenting responsibilities, and collaborate with other corporate parents in fulfilling its responsibilities. It must also report on how its responsibilities have been exercised, including information on standards of performance and outcomes.</p> <p><i>Services where children are at risk of becoming looked after-</i></p> <p>The Council has a duty to provide the following services, for children at risk of becoming looked after and their families, or for pregnant women and their partners who are likely to give birth to children at risk of becoming</p>

looked after:

Family group decision making services
Support services in relation to parenting

The Council has a duty to publish information about these services.

Kinship care assistance in aspect of Kinship Care Orders

The Council has a duty to provide kinship care assistance to kinship carers of eligible children residing in its area who have or are considering applying for a kinship order (and to eligible children subject to such an order or who were subject to such an order). Such assistance includes the provision of information, advice and financial support towards the cost of the application for a kinship order.

For kinship carers of eligible children living within its area holding a Kinship Care Order (in effect, a Residence Order in terms of section 11 of the Children (Scotland) Act 1995) local authority kinship care assistance includes the provision of a kinship care allowance.

“Eligible” children are those who have been previously looked after or who are at risk of becoming looked after.

The Council must publish information regarding kinship care assistance.

Relevant Council Service / ALEO Social Work

11

Function	Provision of care and support for people who have or have had a mental disorder
Act	The Mental Health (Care and Treatment) (Scotland) Act 2003
Content	<p>The Act prescribes a duty to provide or secure the following services which provide care and support for persons who are not in hospital and who have or have had a mental disorder:</p> <ul style="list-style-type: none"> • Care and support e.g. personal care and counselling; • Services which are designed to promote the well-being and social development of those persons e.g. recreational activities; • Assistance with travel to attend or participate in provided services. <p>The Council may provide the above services for those persons in hospital who have or have had a mental disorder.</p> <p>In providing services the Council has a duty to co-operate with health boards, special health boards, national health service trusts and voluntary organisations that appear to have an interest in the provision of the services by the Council.</p> <p>There is a duty on the Council to appoint a sufficient number of suitable, qualified and competent persons as mental health officers and to provide or secure the provision of training for the mental health officers.</p> <p>The Council has a duty enquire into an individual's case where it appears that a person who is aged 16 or over had a mental disorder and any of the following circumstances apply:</p> <ul style="list-style-type: none"> • The person may be or may have been subject or exposed to ill-treatment, neglect or some other deficiency in care or treatment at some place other than in hospital.

Relevant Council Service / ALEO	Social Work (Please note that many of the services are provided by Cordia)
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11

Function	Community Care Services
Act	Social Care (Self-directed Support)(Scotland) Act 2013 (“the SDS Act”)
Content	<ul style="list-style-type: none"> • Where a local authority decides under section 12A(1)(b) of the Social Work (Scotland) Act 1968 that the needs of an adult call for the provision of community care services; or where a local authority is to provide services under section 22 of the Children (Scotland) Act 1995 to a child or a member of a child’s family; or where the local authority has decided to provide support to an adult carer under section 3 of the SDS Act, the authority must give the supported person the opportunity to choose one of the options for self-directed support unless the authority considers that the supported person is ineligible to receive direct payments. • The options for self-directed support are <ol style="list-style-type: none"> 1. The making of a direct payment by the local authority to the supported person for the provision of support. 2. The selection of support by the supported person, the making of arrangements for the provision of it by the local authority on behalf of the supported person and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of that provision. 3. The selection of support for the supported person by the local authority, the making of arrangements for the provision of it by the authority and, where it is provided by someone other than the authority, the payment by the authority of the relevant amount in respect of the cost of that provision. 4. The selection by the supported person of Option 1, 2 or 3 for each type of support and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of the support. • The authority must take reasonable steps to ensure that the supported person can make a choice of the SDS options; identify persons who are able to assist; and with the supported person’s agreement involve the persons so identified. • The authority must give in writing to a person to whom it has given an opportunity to choose an SDS Option an explanation of the nature and effect of each of the options for self-directed support; information about how to manage support; and information about persons who can provide (i) assistance or information to the person to assist the person in making decisions about the options, (ii) information about how to manage support, and in any case where the authority considers it appropriate to do so, information about persons who provide independent advocacy services. • The authority must give effect to the SDS Option chosen.

- The authority must take steps to promote the SDS Options.
- A local authority must have regard to the following principles when carrying out its functions under Part 2 of the 1968 Act (other than sections 27, 27B, 28 and 29); sections 22 to 24 of the 1995 Act; and the SDS Act.
 - (1) A person must have as much involvement as the person wishes in relation to—
 - (a) the assessment of the person's needs for support or services, and
 - (b) the provision of support or services for the person.
 - (2) A person must be provided with any assistance that is reasonably required to enable the person—
 - (a) to express any views the person may have about the options for self-directed support, and
 - (b) make an informed choice when choosing an option for self-directed support.
 - (3) A local authority must collaborate with a person in relation to—
 - (a) the assessment of the person's needs for support or services, and
 - (b) the provision of support or services for the person.

Relevant Council Service / ALEO

Social Work

11

Function	Integrated Health and Social Care
Act	Public Bodies (Joint Working) Scotland Act 2014
Content	<p>This Act makes provision in relation to the carrying out of functions of local authorities and Health Boards.</p> <p>The local authority and the Health Board have a duty to jointly prepare an Integration Scheme for the area of the local authority.</p> <p>The Integration Scheme must set out the model of integration selected from the Act by the local authority and the Health Board (in Glasgow this will be the body corporate model - an Integration Joint Board or “IJB”); the functions that are to be delegated to the IJB; the method of determining payments that are to be made to the IJB by the local authority; and the amounts that are to be made available to the IJB by the Health Board.</p> <p>A delegated function can be a power or a duty or contain elements of both. The Act does not distinguish between the two.</p> <p>In terms of the Act and secondary legislation made under it, some functions must be integrated and others may be. When in due course, the statutory functions are delegated to the Glasgow City IJB, the Act requires the IJB to prepare a strategic plan for the local authority area, which plan must set out the arrangements for the carrying out of the integrated functions; and how these arrangements are intended to achieve or contribute to achieving national health & wellbeing outcomes.</p> <p>The IJB will direct its constituent authorities (the Council and/or Health Board) to carry out each function delegated to it and the constituent party must comply with the direction given by the IJB.</p>
Relevant Council Service / ALEO	Social Work

RETURNING OFFICER, ERO & CITY ASSESSOR

12

Function	Appoint a Returning Officer for Local Government Elections
Act	Section 41(1), Representation of the People Act 1983 (RPA 1983)
Content	
<ul style="list-style-type: none"> ▪ The Council must appoint an officer of the Council to be the Returning Officer for the election of councillors to their Council. ▪ The Returning Officer (normally the Chief Executive) is then named in legislation as the Returning Officer for the United Kingdom and Scottish Parliament Elections. ▪ The Council is required to provide the Returning Officer with the resources to be able to : <ul style="list-style-type: none"> ○ Publish the notice of election; ○ Publish the nomination process; ○ Publish the notice of poll and situation of polling stations; ○ Provide polling stations; ○ Appoint Presiding Officers and Poll Clerks; ○ Manage the postal voting process; ○ Verify and count the votes; and ○ Declare the results. 	
Relevant Council Service / ALEO	Corporate Services

RETURNING OFFICER, ERO & CITY ASSESSOR

12

Function	
Function	Provide rooms to the Returning Officer for Local Government Elections
Act	Rule 18(1) Local Government Elections Rules 2011
Content	
<ul style="list-style-type: none">▪ The Council must provide any local authority funded room as a polling station.<ul style="list-style-type: none">○ This is replicated in legislation for the United Kingdom and Scottish Parliament Elections.	
Relevant Council Service / ALEO	All Services and ALEOs

RETURNING OFFICER, ERO & CITY ASSESSOR

12

Function	
Function	Provide services to the Returning Officer for UK and Scottish Parliament elections
Act	Section 25 (2) Representation of the People Act 1983
Content	
<ul style="list-style-type: none">▪ The Council shall place at the disposal of the Returning Officer the services of officers employed by the Council.	
Relevant Council Service / ALEO	All Services and ALEOs

RETURNING OFFICER, ERO & CITY ASSESSOR

12

Function	
Function	Storage and disposal of election documents
Act	
Act	Rule 59, Schedule 1, Scottish Local Government Elections Order 2011 (Local Government Rules)
Content	
<ul style="list-style-type: none"> ▪ The Proper Officer of the Council shall keep for the stipulated period the records listed below and then dispose of them. ▪ For Local Government Elections the documents to be stored and then disposed of are detailed in : <ul style="list-style-type: none"> ○ Rule 11, Schedule 1 Local Government Rules; ○ Rule 60, Schedule 1, Local Government Rules; and ○ Regulation 4(2), Supply and Inspection Scotland Regulations 2007. 	
Relevant Council Service / ALEO	
Relevant Council Service / ALEO	Corporate Services

RETURNING OFFICER, ERO & CITY ASSESSOR

12

Function	
Review of Polling Districts, polling places and polling stations	
Act	The Electoral Registration and Administration Act 2013 Schedule A1 Representation of the People Act 1983 (RPA1983)
Content	
<ul style="list-style-type: none">▪ Reviews have to be carried out by the Council every 5 years of Polling Districts, polling places and polling stations.▪ Details of the formal review process are set out in Schedule A1 of the 1983 Act.	
Relevant Council Service / ALEO	Corporate Services

RETURNING OFFICER, ERO & CITY ASSESSOR

12

Function	Electoral Registration
Act	Representation of the People Act 1983 , Representation of the People Act 1985 , Representation of the People (Scotland) Regulations 2001 , European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations , Electoral Registration and Administration Act 2013
Content	
<p>The Electoral Registration Officer (ERO) is required by law to collate and maintain, for their area of responsibility:-</p> <ol style="list-style-type: none"> 1. a register of parliamentary electors 2. a register of local government electors 3. a register of relevant citizens of the European Union entitled to vote at European Parliamentary elections 4. a register of those peers living outside the UK who have made a declaration to vote at European Parliamentary elections 5. these registers contain the details of all those who are registered to vote and combined form the Electoral Register. <p>The ERO must also by law produce an open or edited register which contains the names and addresses of those on the full register who have not taken the decision to opt out of their details appearing on the edited register.</p> <p>The ERO has a duty under Section 9A of the Representation People Act 1983 (as amended by the Electoral Registration and Administration Act 2013) to take all necessary steps to comply with their duty to maintain the electoral register, and to ensure, as far as is reasonably practicable, that all those eligible (and no others) are registered in it.</p>	
Relevant Council Service / ALEO	Financial Services

RETURNING OFFICER, ERO & CITY ASSESSOR

12

Function	City Assessor
Act	Local Government (Scotland) Act 1974 , Local Government (Scotland) Act 1975 , Lands Valuation (Scotland) Act 1854 , Local Government Finance Act 1992
Content	
<p>Every Valuation authority is required to appoint an assessor.</p> <p>It is the duty of the assessor for each valuation area to make up a valuation roll in respect of each year of revaluation. The Valuation Roll must be in the form prescribed by the statutory instrument and it comes into force on the first day of the year of revaluation. It remains in force until superseded by a new Valuation Roll.</p> <p>In order to enable the assessor to perform his duties in regard to valuation he or she has always been given powers for the obtaining of information. The information that may be requested is defined as any such information from a proprietor, tenant or occupier of a property in the valuation area as may reasonably be required by the assessor to value lands and heritage. To these powers was added the power to share information freely with the assessor's counterparts, either other assessors in Scotland or rating officials in England and Wales.</p> <p>It is the duty of the assessor to compile and maintain a valuation list for their valuation authority which must show</p> <ul style="list-style-type: none"> • each dwelling which is situated in the valuation area and; • which if the valuation bands are applicable to that dwelling. 	
Relevant Council Service / ALEO	Financial Services

LEGISLATION NOT YET IN FORCE

13

The Council will acquire additional powers and duties when new and proposed legislation enters into force.

As a guide to future obligations, legislation which is partially in force or legislation which is awaiting commencement and is therefore not yet in force is set out below.

In addition to this, there are Bills currently being debated in the Scottish Parliament which may impact the Council. However, these may be amended substantially before they are enacted. For this reason, the relevant powers and duties listed below are subject to change.

This section is therefore intended only to give an overview of potential changes, and does not constitute the current legal position.

LEGISLATION NOT YET IN FORCE

13

Function	Processing of information relating to individuals, including the obtaining, holding, use or disclosure of information.
Act	The Data Protection Bill
Content	<p>The EU General Data Protection Regulation (GDPR) comes into force on 25 May 2018. There is currently a new Data Protection Bill which, together with the GDPR, will replace the current Data Protection Act 1998.</p> <p>The data protection principles set out the main responsibilities for organisations processing personal data. In summary, the data protection principles provide that personal data shall be:</p> <ul style="list-style-type: none">• processed lawfully, fairly and in a transparent manner in relation to individuals;• collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;• adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;• accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;• kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals;

- processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

The Council will be required to show how it complies with the principles, for example, by documenting the decisions it takes about a processing activity.

The Council must establish a legal basis before processing personal data. For non-sensitive personal data, there are six conditions to choose from:

- Consent of the data subject
- Necessary for the performance of a contract with the data subject or to take steps to such a contract
- Necessary for compliance with a legal obligation
- Necessary to protect the vital interests of a data subject or another person where the data subject is incapable of giving consent
- Necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller
- Necessary for the purposes of legitimate interests ***This legal basis cannot be used by any public authority including the Council**

Under the new legislation, the Council cannot readily rely on consent when carrying out a public function. This is because it is considered that public bodies are in a position of power and therefore consent cannot be freely given by the data subject.

Processing personal data that is necessary for the performance of a task carried out in the public interest or in the exercise of the controller's official authority includes processing or personal data that is necessary for:

- the administration of justice;
- the exercise of a function of either House of Parliament;
- the exercise of a function conferred on a person by an enactment; or
- the exercise of a function of the Crown, a Minister of the Crown or a government department.

Under the new legislation, sensitive personal data will be referred to as 'special category personal data'. To process special category personal data, the Council must satisfy at least one of the following conditions:

- Explicit consent of the data subject, unless reliance on consent is prohibited by EU or UK law.
- Processing is necessary for carrying out obligations under employment, social security or social protection law, or a collective agreement.

- Processing is necessary to protect the vital interests of a data subject or another individual where the data subject is physically or legally incapable of giving consent.
- Processing carried out by a not-for-profit body with a political, philosophical, religious or trade union aim provided the processing relates only to members or former members (or those who have regular contact with it in connection with those purposes) and provided there is no disclosure to a third party without consent.
- Processing relates to personal data manifestly made public by the data subject.
- Processing is necessary for the establishment, exercise or defence of legal claims or where courts are acting in their judicial capacity.
- Processing is necessary for reasons of substantial public interest on the basis of Union or UK law which is proportionate to the aim pursued and which contains appropriate safeguards. This provision is likely to be the basis for the majority of situations where the council process special category personal data.
- Processing is necessary for the purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services on the basis of Union or UK law or a contract with a health professional.
- Processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of healthcare and of medicinal products or medical devices.
- Processing is necessary for archiving purposes in the public interest, or scientific and historical research purposes or statistical purposes.

Relevant Council Service / ALEO	All Services and ALEOs
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